THE STATUTE OF LIMITATIONS—p. 480. REPORT OF THE LAND REGISTRY—p. 482.

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*** Notices to Subscribers and Contributors will be found on page ix.

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Current Topics.

Arrangement of Papers.

DURING THE hearing of a recent short cause the Lord Chief Justice drew counsel's attention to the necessity of chronologically arranging and paging the correspondence. He expressed the hope that there would soon be a rule, if there were not one already, that no costs should be allowed on taxation in respect of correspondence which had not been so arranged or paged. Considerable inconvenience and some delay is the invariable result of the breach of this obvious duty which, as the Lord Chief Justice remarked, is only a five minutes' task for someone. Although there would in fact appear to be no rule which imposes a penalty of the nature suggested, Ord. 66, r. 7 (*m*), states that "The folios of all printed and written office copies, and copies delivered or furnished to a party, shall be numbered consecutively in the margin thereof, . . ." This suggests, as well as does common sense, that parties must attend to the convenient arranging of all papers, and if in consequence of continued carelessness in this respect the rule suggested by the Lord Chief Justice is laid down, it will, at any rate, have the desired effect. It seems that—to use the words of the Lord Chief Justice—"nothing else will avail."

Stamps on Conveyances of Crown Lands.

ALTHOUGH BY s. 119 of the Stamp Act, 1891, it is provided that "except where express provision to the contrary is made by this or any other Act, an instrument relating to property belonging to the Crown, or being the private property of the Sovereign, is to be charged with the same duty as an instrument of the same kind relating to property belonging to a subject," this section is almost a dead letter, for there is still on the statute book the Crown Lands Act, 1829, which, by s. 77, exempts from stamp duty almost every document relating to Crown lands. An exemption so far-reaching, especially in these days when few documents escape the net cast far and wide by the Chancellor of the Exchequer, naturally surprised the Select Committee of the House of Commons, which has recently been considering the Crown Lands (No. 2) Bill, and when informed that that measure contained a clause that s. 77 of the Crown Lands Act, 1829, as well as so much of any other enactment as confers an exemption from stamp duty in respect of any instrument or document made or executed with or by the Commissioners of Crown Lands, shall cease to have effect, they intimated to counsel, who appeared for the promoters, that it was superfluous for him to argue in support of the repeal. Not only, it appears, does a conveyance from the Commissioners to a private person escape stamp duty, but even an assignment of a lease of Crown lands from one lessee to another enjoys the like immunity from taxation. By the remedial enactment the fisc may not gain a very large increase in revenue each year, but with taxation of everything else on a high scale, no source of income is to be neglected, and there should be little, if any, opposition to the proposed repeal of the exempting statutes.

The Motor Car a Cause and Means of Crime.

NO SOONER does mankind develop some invention for general use and convenience than it becomes perverted to ill ends. The motorist at large is himself not a law-abiding person, partly because the power vehicle has so rapidly outstripped the law's conception of it, and partly because it has come into a world of narrow streets and confined spaces ill-prepared for its reception. The motorist's lawlessness is more or less forced upon him. But over and above his innumerable peccadilloes and occasional more serious offences, his car, perforce left often unguarded with portable property in it, offers tempting opportunities to a thief. Thefts from motor cars are becoming exceedingly numerous. Thefts of motor cars themselves are frequent, and unhappily they are not only subjects of larceny, but are often stolen to be used as instruments by which further nefarious attempts can be made. The more picturesque of these are written up by a press avid of sensation to purvey to its readers. Some of the readers, again, are ill-disposed persons easily suggestible as to crime, and so the vicious circle goes round. How far the actual volume of crime is affected is doubtful. The criminal statistics neither show, nor have shown, any "crime wave" since the war, and probably "motor bandits," as we are pleased to call them, and the less courageous pilferers who hang around parking places, would be up to some other mischief if this particular form of it did not lie ready to their hands. But opportunity certainly determines the form of crime, and the motor car makes possible to the daring criminal certain offences which would not otherwise be possible. Unfortunately, the remedy of setting motor police to catch motor thieves has serious risks for the public at large: cars dashing at high speed in chase of other cars are not pleasant phenomena to peaceful and quiet folk. The evil will be kept in bounds, but those who are not as young as they used to be sometimes wish the last pint of petrol could be burned, and the slower, but less dangerous, times of their youth return.

"Escheat."

"CITY PROPERTY of the value of £700 per annum was declared escheat to the Crown to-day by a jury at the Guildhall." In these words an evening paper announced the result of an interesting and unique enquiry (it is the only one of its kind which has taken place within the memory of the present Guildhall officials) held last Tuesday as to the ownership of certain property which was lately held by a lady who died intestate and with no heir. The late owner died in 1921—before the new Acts came into operation; so that the pre-1926 law was that which was applied. The Administration of Estates Act, 1925, s. 45 (1) enacts that "with regard to the real estate and personal inheritance of every person dying after the commencement of this Act, there shall be abolished (*d*) Escheat to the Crown or the Duchy of Lancaster or the Duke of Cornwall or to a mesne lord for want of heirs." A provision designed to protect the "vested interests" (in the lay meaning of that expression) of those expecting to succeed on the death of a person who was a lunatic or defective on the 1st January, 1926, and who dies intestate without having recovered from his affliction, has incidentally saved in one solitary case the ancient right of escheat. The general abolition of the right of escheat does not, however, mean that the Exchequer has decided to relinquish, as from 1925, all claims which it formerly had in respect of land whose owner dies intestate and without next of kin. On the contrary, by s. 46 of the same Act it is provided that in default of any person taking an absolute interest as statutory next of kin in a deceased intestate's property, real or personal, such property is to belong to the Crown or to the Duchy of Lancaster or to the Duke of Cornwall for the time being as "*bona vacantia*" and in lieu of any right to escheat. The historical importance of this change as respects personalty is that the right of the Crown ceases to depend upon the common law which in this connexion has hitherto remained practically unaffected by statute. The legal significance of the substitution of the claim to *bona vacantia* for the right to escheat is admirably brought out in a paragraph contained in Mr. ENEVER'S recent work on "*Bona Vacantia* under the Law of England"—a work containing a really sound and clear exposition of the English law affecting the ownership of "ownerless goods," both before and after the passing of the Administration of Estates Act, 1925, and published by His Majesty's Stationery Office. "In the case of the Crown's title to *bona vacantia*," Mr. ENEVER observes (at p. 16), ". . . the Crown acquires the ownership which was vested in the deceased. In the case of the Crown's title by way of escheat in respect of the real estate of inheritance of a person dying before 1926 intestate and without an heir at law, the Crown did not acquire any right or interest of the deceased, but continued to be the owner of the land, freed from the estate previously carved out of the Crown's interest in the land."

Proceedings before Court of Referees under Unemployment Insurance Act, 1920, whether absolutely privileged.

IN DETERMINING the question of absolute privilege in connexion with the defamatory statements made in the course of judicial proceedings, a difficulty may occasionally arise as to whether the proceeding is to be regarded as a "judicial proceeding." The decision of Mr. Justice HORRIDGE in *Collins* v. *Whiteway & Co. Ltd.*, 43 T.L.R. 532, ought therefore to be noted, because the point was raised in that case whether a letter written to the Divisional Controller of the Ministry of Labour on the subject of an employee's claim to unemployment benefit was absolutely privileged. The plaintiff in *Collins* v. *Whiteway & Co. Ltd.* had applied to the insurance officer for unemployment benefit, who had referred her case to the Court of Referees constituted under the Unemployment Insurance Act, 1920. The functions of this court are to consider every case referred to it and to make its recommendations to the insurance officer, who may or may not act according thereto. In the event of disagreement the insurance officer must, if so required by the Court of Referees, refer the case to an umpire, whose decision will be final. The Court of Referees in *Collins' Case* had made their recommendation, but before their decision had been promulgated by the insurance officer, the defamatory letter in question had been written by the plaintiff's employer (the defendant) to the Divisional Controller of the Ministry of Labour, who appeared from the evidence to be the proper person to whom communications with regard to unemployment insurance ought to be addressed. Now judicial proceedings are of two kinds. As LOPES, L.J., put it in *Royal Aquarium and Summer and Winter Garden Society* v. *Parkinson*, 1892, 1 K.B., App. 452: "The word 'judicial' has two meanings. It may refer to the discharge of duties exercisable by a judge or by justices in court, or to administrative duties which need not be performed in court, but in respect of which it is necessary to bring to bear a judicial mind—that is, a mind to determine what is fair and just in respect of the matters under consideration." Mr. Justice HORRIDGE was of opinion that the proceedings before the Court of Referees fell within the latter class of judicial proceeding, and that that court was merely discharging administrative duties; and the learned judge based his decision on the fact that in his view the Court of Referees was created for the purpose of deciding claims made upon the insurance fund, and that it was not a body deciding between parties and that its decision did not affect criminally or otherwise the status of an individual. He accordingly held that the communication was not absolutely privileged.

Receipt of Documents by former office as agent for Inspector of Taxes transferred therefrom.

AN IMPORTANT point of practice with regard to Revenue appeals by way of case stated was decided by ROWLATT, J., in *Grainger* (*Inspector of Taxes*) v. *Singer*, *Times*, 31st May, 1927. The material facts of the case were shortly as follows: The appellant Inspector of Taxes had on the 14th December, 1922, required the Commissioners to state a case. After a series of delays, the case stated and signed was sent to the office where the appellant had been in 1922, and was received there on the *24th August*, 1926. In the meantime, however, the appellant had on the 24th October, 1923, been moved to another district. On 1st September, 1926, the case was sent to the Secretary to the Commissioners of Inland Revenue and by him to the Solicitor of the Inland Revenue, who filed it on the 2nd September, 1926. Now s. 149 (1) (*d*) of the Income Tax Act, 1918, provides that "The case shall set forth the facts . . . and the party requiring it shall transmit the case when stated and signed to the High Court within seven days after receiving the same." A preliminary objection was taken that the appeal was out of time. Although the Crown did not dispute that the Solicitor of Inland Revenue was the agent of the appellant, and that receipt by him was receipt by the appellant, the Crown contended that the appellant was "the party requiring" the case and that the case had to be received by him and not his successor. In that event the appeal would not have been out of time, since time would run from the date when the case was received by the Solicitor to the Inland Revenue, who was the appellant's agent. Mr. Justice ROWLATT held, however, that the preliminary objection succeeded and that the appellant was out of time, the learned judge being of opinion that the office where the appellant was previously was to be regarded as the agent of the appellant to receive the case, and that it was not necessary that the appellant should actually receive the case in his hand. This case therefore decides that, although an inspector of taxes, on being transferred, takes pending appeals with him, his previous office is his agent for receiving documents in connexion therewith; and the receipt of such documents by such office is equivalent to receipt by the inspector, notwithstanding his transfer.

Some Legal Aspects of Town Planning.

By RANDOLPH A. GLEN, M.A., LL.B.
(*Editor of "Glen's Public Health," 1925 Edition*).

(*Continued from p.* 441.)

VI.

The second of the typical town planning schemes with which I promised to deal is that for the Sevenoaks area. The "observations" of the Minister of Health upon this scheme, the local inquiry into which lasted for three days in October last and aroused keen interest all over the county, have just been received from Whitehall, and I am indebted to Mr. G. T. Bradbury, the Clerk to the Urban District Council, for copies of the Preliminary Statement prepared by that Council and of the observations thereon. A report of the inquiry was issued at the time.(1)

The scheme is being prepared jointly by the Sevenoaks Urban and Rural District Councils, and covers an area of about 100 square miles in perhaps the most beautiful part of Kent. Strenuous opposition was offered to the proposals with regard to the famous "Pilgrims' Way." This is a road for vehicular traffic. In places it is only 9 feet in width, and the scheme provides for its widening, when the necessity arises, to 40 feet. It is desired to prevent the encroachment of bungalows within that space, and there is no immediate intention of carrying out the actual widening. As the result of a friendly conference during the inquiry, the proposal to carry a by-pass road through Knole Park was abandoned. The proposal to reserve a large portion of this park as a private open space was retained, subject to further negotiations with Lord Sackville. It has for many years been open to the public through the courtesy of the owner. The other main features of the scheme, as modified during the course of the inquiry, are as follows: The lines are prescribed for two great East and West roads, connecting up ultimately with Reigate and Maidstone, and passing, respectively, to the North and to the South of the town of Sevenoaks. The route is also prescribed for the Sevenoaks By-pass Road, which has been designed to keep through traffic using the London-Hastings Road clear of the town. The Shoreham By-pass Road is intended to link up the roads and traffic from the North of the rural district (particularly that anticipated from the proposed Thames tunnel from Purfleet to Dartford) with the Sevenoaks By-pass Road. As to "zoning," it is proposed to restrict building in both the urban and rural areas to a density of eight houses per acre, subject to an exception in regard to an area of 50 acres in Edenbridge and an area of 11 acres in Westerham, where a density of twelve houses per acre is to be allowed. An industrial area of about 150 acres is zoned in the North of the urban district and the contiguous area in the rural district. It is proposed to reserve land in each of the eighteen parishes comprising the rural district, both for public playing fields and for allotments. Provision is made in the urban scheme for public open spaces and for cemetery extension.

Many of the Minister's observations, which have been made on the urban scheme separately from the rural,(2) are similar to those which he made on the Sidcup Scheme. For instance, certain "built-up" areas have been excluded for the reasons already stated.(3)

As to "*streets*," in addition to observations of the same kind as those on the Sidcup proposals,(4) the Minister advised that the omission of the new road through Knole Park rendered desirable improvements of other streets affected by this omission. A certain widening would have to be omitted "as the land concerned is not within the area of the scheme." In the case of a proposed widening the Minister suggested "that the Council should consider the practicability of avoiding interference with the grounds of Hurst Lea by widening the portion of the road concerned on the east instead of on the west side." With regard to certain "stoppings up and diversions," the Minister said: "If, as is gathered, these roads lie partly within the Sevenoaks Rural District, the scheme could not properly provide for their stopping up, and it is suggested that these proposals should be omitted." Why the Minister should veto a highway diversion because the way is in two districts, I do not know. There has recently been a diversion in connection with Ken Wood where the way was not only in two districts but in two counties, London and Middlesex. Applications were made to the Quarter Sessions of the two counties, and, though the framing of the notices, etc., was somewhat complicated, the matter was carried through without much difficulty, and I fail to see any insuperable objection to the diversion under a joint town planning scheme of a way in the two districts concerned. The same observations as to "subsidiary street standards" as those already noted were made in this case.(5)

As to "*Crown lands*," the observation was: "The Minister is advised that Crown lands cannot be made subject to the provisions of a town planning scheme. If, therefore, the freehold of the land to be used as an anti-aircraft station by the Kent Territorial Force Association rests in the War Office, the land should be excluded from the area of the scheme."

As to "*railway lands*," it was "observed that the railway lands have been given a special colour on the Map and are not made subject to any character and density provisions. It is suggested that these lands should be zoned for character and density in general conformity with the neighbouring lands."

With regard to "*building lines*," as in the case of Sidcup,(6) the Minister failed to see any justification for building lines of 30 and 40 feet from the boundaries of certain streets, and suggested "that the building lines on all new streets and widenings shown on the Map should not be more than 25 feet from the boundary of the street," adding that he doubted "whether, in the absence of express agreement with owners on the subject, a set-back in excess of 15 feet from the boundary of the street in areas in which industrial buildings are allowed without consent, or 10 feet in areas in which shops and business premises are allowed without consent, can safely be imposed, as this is as much, in his opinion, as can generally be required without risk of injury to the interests affected," and again drawing attention to *Ellis' Case*,(7) and to the desirability of taking a "general power of permitting relaxations."(8)

As to "*residential areas*," the Minister observed "that no reference is made to these areas in the Preliminary Statement. It is suggested that for Preliminary Statement purposes the areas should be allocated as areas in which dwelling-houses and residential buildings may be erected without consent, other buildings, but not industries likely to injure the amenity of the area, being permitted by special consent of the Council subject to appeal to the Minister." Observations similar to those already noted were made with regard to "shopping areas,"(9) "industrial areas"(10) and "density zones."(10)

The Minister's observations on other proposals in this scheme, such as "height," "open spaces," "allotments," etc., will be dealt with next week.

(*To be continued.*)

(1) *Re Sevenoaks Urban and Rural Districts Town Planning Scheme*, Justice of the Peace Journal, 30th October, 1926, pp. 602, 603.
(2) I have asked the Clerk to the R.D.C. for a copy of the observations upon their scheme, and hope to be able to deal with these later.
(3) See *ante*, p. 419, col. ii, top.
(4) See *ante*, p. 419, col. ii, middle.
(5) See *ante*, p. 441, cols. i, ii.
(6) See *ante*, p. 440, col. ii.
(7) Fully digested *ante*, pp. 342, 358.
(8) See *ante*, p. 440, col. ii, middle.
(9) See *ante*, p. 440, col. ii, bottom.
(10) See *ante*, p. 441, col. i, top.

The Statute of Limitations and Arbitration.

THE case of *Board of Trade* v. *Cayzer, Irvine and Company, Ltd.*, is an important one. The facts are shortly these: In May, 1917, one of the respondents' steamers was requisitioned by the Government on the terms of a T.99 charterparty, the arbitration clause of which was substantially in the *Scott* v. *Avery* form, viz.: "Any dispute shall be referred to the arbitration of two persons, and it is further mutually agreed that such arbitration shall be a condition precedent to the commencement of any action at law." In July, 1917, the steamer was lost, and in November, 1923 the respondents went to arbitration. Before the arbitrator the Crown took the objection, amongst others, that as the proceedings had commenced more than six years after the loss of the steamer, the respondents were barred by the Statute of Limitations. The arbitrator decided that the statute did not apply: ROWLATT, J., held that it did, and then the Court of Appeal and the House of Lords unanimously upheld the arbitrator's decision. The ground of the decision in the two last-named courts was that, apart from any question whether the Statute of Limitations applies to an ordinary arbitration, when the arbitration clause is in the *Scott* v. *Avery* form, the statute cannot possibly apply. In *Scott* v. *Avery*, 5 H.L.C. 811, part of the arbitration clause then under consideration was in the following terms: "And the obtaining the decision of such arbitrators on the matters and claims in dispute, is hereby declared to be a condition precedent to the right of (the parties) to maintain any action or suit"; the question was whether such a clause was invalid on the ground that it ousted the court of its jurisdiction. The House of Lords held that the jurisdiction was not ousted, for what the clause meant was not that the jurisdiction should be ousted, but that no cause of action should arise until the arbitrator had made his award, and that therefore the jurisdiction did not come into existence until that time. In *The Board of Trade* v. *Cayzer, Irvine and Company, Ltd.*, the courts held, following *Scott* v. *Avery*, that as the cause of action did not arise until the arbitrator had made his award, the Statute of Limitations therefore did not start running till that time, and consequently no plea of the Statute of Limitations could be taken at the hearing before the arbitrator. The decision is therefore one of great importance, for it establishes an important distinction between arbitration clauses in the *Scott* v. *Avery* form and arbitration clauses not in that form; in case of the former the Statute of Limitations may not be pleaded before the arbitrator; in the case of the latter it can: See *In re Astley and Tyldesley Coal and Salt Co. and Tyldesley Coal Co.*, 68 L.J. Q.B., 252.

But the importance of the case does not end with the actual decision; it is important also because SCRUTTON, L.J., in the course of his judgment cast grave doubts upon the decision in *In re Astley, sup.*, which was that in an ordinary arbitration, i.e., where there is no *Scott* v. *Avery* clause in the submission, the plea of the Statute of Limitations can be taken. To quote his own words, SCRUTTON, L.J. said, at p, 291: "I reserve myself liberty to consider when the case arises before this court whether *In re Astley and Tyldesley Coal and Salt Co. and Tyldesley Coal Co.* was rightly decided. I think that question has not yet been properly considered, that it is a very difficult one, and probably one which does not admit of an absolute rule being laid down applicable to all arbitrations," and at p. 292, ". . . I say no more than that it is very doubtful in my judgment whether you can imply a term that the arbitrator is to take account of the Statute of Limitations as if he were trying an action." It is true that in the House of Lords the Lord Chancellor said he did not wish to throw doubt upon the decision in *In re Astley;* but that was very neutral support, and in view of the very grave doubts cast upon it by SCRUTTON, L.J., the authority of the decision is somewhat shaken. This is an important matter, for there must be very many arbitration clauses which are not in the *Scott* v. *Avery* form, and there will now be great doubt as to what is the position as to pleading the Statute of Limitations before an arbitrator. It is therefore greatly to be hoped that the matter will soon come before the courts to be definitely settled one way or the other, but in the meantime it may not be out of place to consider *In re Astley*.

The case arose out of an arbitration between two colliery companies who had agreed to refer certain matters in dispute between them to the decision of an arbitrator; one of the parties wished to plead the Statute of Limitations and the arbitrator stated a case for the opinion of the court. The case was heard before a Divisional Court composed of BRUCE, J., and RIDLEY, J., and they both held that the Statute could be pleaded. There are three reports of the case, viz.: 68 L.J., Q.B. 252, 15 T.L.R. 154 and 80 L.T. 116, and the reports are not by any means identical, but the words of RIDLEY, J., as reported in 15 T.L.R. 155, may be given as showing the ground of the decision: "It had been argued that the parties were excluded by their agreement from raising a question under the Statute. If such was intended to be the condition the parties ought expressly to have stated it. It was for those who were trying to go behind the ordinary course of law to show that there was an agreement to that effect." In short, it is an implied term of an arbitration agreement that the ordinary course of law (including therein the pleading of the Statute of Limitations) shall apply. Is this a statement of law, which apart from the authority that it possesses as a binding decision, is a correct one? It is submitted that it is. In the first place it is clear that the Statute of Limitations does not directly apply to arbitrations for it applies only to actions and a proceeding before an arbitrator is not an action; it can only apply, by agreement between the parties, for as the parties themselves create the court they are perfectly competent to settle its procedure. Where the parties have expressly set out in their submission how they wish the proceedings before the arbitrator to be conducted, whether the Statutes of Limitation are to apply and so forth, there is clearly no difficulty. But what is the position where no mention is made of such matters? Then the agreement must be examined to see whether any terms can be implied. The rules for determining under what circumstances a term may be implied into such an agreement have been laid down in several well-known cases, viz.: *The Moorcock*, 14 P.D. 64; *Hamlyn & Co.* v. *Wood & Co.*, 1891, 2 Q.B. 488; *Lazarus* v. *Cairn Line*, 17 Com. Cas. 107 and *Reigate* v. *Union Manufacturing Co.* (1918), 1 K.B. 592, and we may usefully quote the words of SCRUTTON, L.J., in the last-mentioned case (at p. 605): "A term can only be implied if it is necessary in the business sense to give efficacy to the contract, that is, if it is such a term that it can confidently be said that if at the time the contract was being negotiated someone had said to the parties, 'What will happen in such a case,' they would both have replied, 'Of course, so and so will happen; we did not trouble to say that; it is too clear.' Unless the court comes to some such conclusion as that, it ought not to imply a term which the parties themselves have not expressed." And if we apply this rule to the case of an ordinary arbitration agreement, may it not be said that that is a case in which both parties would have said: "Of course we want the ordinary course of law to apply (including therein the pleading of the Statute of Limitations); we did not trouble to say that; it is too clear"? For what are the reasons why parties resort to arbitration? It is chiefly for two reasons: (1) to save the expense of ordinary litigation, and (2) to have their rights considered and determined by someone with experience in the kind of matter about which there is a dispute. Apart from these, they want their rights to remain intact; they want their rights to remain the same as they would be if considered in a court of law. This

point of view receives the support of SWINFEN EADY, L.J., who said in *Jager* v. *Tolme and Runge*, 1916, 1 K.B. 939, 953: "(The arbitrators) are to give a decision—they are to decide—and in the absence of fuller and wider powers expressly given that means to decide according to the legal rights of the parties." Up to this point we can agree with the decision in *In re Astley* on general grounds; let us now consider the particular objections put forward by SCRUTTON, L.J. He cites the case of *In re Badger*, 2 B. & Ald. 691, and its headnote which is as follows: "An arbitrator is not bound by a rule of practice, adopted by courts of law for general convenience; and, therefore, where on a reference of a Chancery suit, and all matters in difference between the parties, the arbitrator had allowed interest (when it would not be allowed by a court of law or equity), the court refused to set aside the award on that ground." But this is no authority against the proposition we are putting forward. All it decides is that such and such a matter does not constitute a sufficient ground for setting aside an award. The learned Lord Justice then goes on to say that there are cases in which arbitrators adjudicate in disputes where the ordinary courts would not adjudicate, e.g., in betting disputes and on p.p.i. policies. But this can be explained on the ground that in cases like these it is clearly an implied term "necessary in the business sense to give efficacy to the contract," that the arbitrators are not to entertain certain defences which would be open in a court of law. It is therefore respectfully submitted that the decision in *In re Astley* is one which should not be overruled.

It may be noted that the remarks of SCRUTTON, L.J., leave us in doubt as to whether another important statute, viz., the Statute of Frauds can be pleaded before an arbitrator. The writer was a short time ago present at a case (unreported) where counsel was prepared to argue along the lines suggested by SCRUTTON, L.J., that that Statute could not be pleaded before an arbitrator. It is therefore doubly important that *In re Astley* should soon come before the courts so that its position as an authority may be definitely settled.

Some Problems of Expulsion.

(*Continued from p.* 461.)

THE subject of expulsion perhaps cannot be considered as completed without touching on the most severe form of it which the law can sanction, namely, expulsion from the realm, or banishment. Outlawry, another grave punishment, might perhaps be regarded as expulsion from the body politic, though not necessarily taking the form of physical expulsion from the Kingdom. It will be remembered that this punishment was regulated by Magna Charta, being forbidden save in accordance with the law of the land. BLACKSTONE mentions punishment "by exile or banishment, abjuration of the realm, or transportation to the American Colonies" (p. 370, original edition). By 39 Eliz., c. 4 (1597), a rogue was to be banished the realm or adjudged to the galleys. Section 14 of the Habeas Corpus Act allows for the transportation of felons, which was afterwards regulated by statute in 1763 (8 Geo. III, c. 15), providing that, if the transported offender were found at large in the United Kingdom during his sentence of exile, he should suffer death.

There can be no question of the right of this country and every other to banish its own subjects, and, *a fortiori*, aliens; but the first right is tempered by the corresponding one of every other country to refuse entry to aliens, which is almost universally exercised to bar criminals. And our own colonies and dominions have so unmistakably let us know their feelings on the matter, that in fact banishment of subjects from the United Kingdom is an entirely obsolete punishment. Whether it is possible under any unrepealed law would be a matter of legal curiosity rather than practical interest. The obsolete provision in the Roman Catholic Emancipation Act banishing Jesuits for life (10 Geo. IV, c. 7, s. 29) was repealed by the Roman Catholic Relief Act last year.

The expulsion of aliens (otherwise than under the regular extradition procedure) was no part of our system in the latter part of last century, when there was even a suggestion that foreigners who found their own land uncomfortable had the "right of asylum" here. No such right has, of course, ever existed against any sovereign country. Undesirable aliens were, however, tolerated until tolerance became something like weakness, until by the Aliens Act of 1905 we exercised our power of purging our shores of foreign criminals, prostitutes, souteneurs, and paupers. This power was, of course, greatly fortified during the war, and since the war it has been so far increased beyond the previous law, that expulsion can lawfully be ordered by the Home Secretary as an executive act, though it was recommended in *Ex parte Eva Bressler*, 1924, 88 J.P. 89, that he should preface the order with the statement that he deemed it to be for the public good. The working of the present law may be gathered from *Ex parte Venicoff*, 1920, 3 K.B. 72, laying down that the alien cannot, as of right, claim anything in the nature of a trial. In *Ex parte Duc de Chateau-Thierry*, 1917, 1 K.B. 922, it was held that the Home Secretary could not, in terms, require the expelled alien to proceed to any particular place or country, but, since he could select the ship on which the deportee was to sail, he could virtually achieve the same object in another way.

It is part of the law of nations, that, on the expulsion of a person of nationality A from nation B, A must submit to the return of her own national, though it may be unwelcome. Various problems arise as to persons who, by one law or another, have lost their nationality, and a certain amount of work on them has been done at Geneva. For a fuller discussion of the problem as one of international law the reader may be referred to the chapter in "Oppenheim," vol. 1, 3rd ed., pp. 498-502.

In discussing expulsion from corporations in the last number, expulsion from their governing bodies was also considered, so perhaps this series may be concluded with a few notes as to expulsion from Parliament.

And, first, as to the House of Lords. The general proposition is that every country, association, society, profession, corporation, club, and company has the inherent power, for its own health, to purge itself of its undesirable members and so keep its body politic healthy. But, for better or worse, the House of Lords has no such power, and, if a peer who has received his writ happens to be a blackguard, he nevertheless remains a legislator—unless, indeed, he happens also to be a bankrupt, when he is disqualified from sitting and voting in the House by s. 32 (1) (*a*) of the Bankruptcy Act, 1883. An attempt at expulsion, it is true, was made in the case of the EARL OF MIDDLESEX in 1624, but the opinion of a subsequent Lord Chancellor was given that this was a provision "of such a nature as was never before found in any judgment of Parliament, and, in truth, not to be inflicted on any peer save by attainder." That the House of Lords has, acting alone, no power to expel its members is surely demonstrated by the Titles Deprivation Act, 1917, in which the House had to invoke the aid of King and Commons to rid itself of peers who had borne arms against his Majesty. That it cannot rid itself of peers convicted of felony follows from the abolition of "corruption of blood" as following such conviction. One such peer in fact now takes a fairly active part in debate, though it is only right to say that there were many extenuating circumstances in his case, and, if the House had had the power to expel, it would probably not have exercised it against him.

It may be added that certain peers, knowing the calumnies which undesirable members of the House left open to its traducers, sought by Bill to give it the power to purge itself, and the then Lord CARNARVON brought in a measure to this end about forty years ago. It was, however, so bitterly assailed by Lord HALSBURY and Lord ESHER that the House

threw it out, a decision that the more judicious of the peers probably much regretted in 1910 and 1911, when the House had laid itself open to public resentment on other grounds.

The House of Commons, unlike the House of Lords, has always reserved itself power to expel its undesirable members, but, after the furious controversies raging round JOHN WILKES in the eighteenth century, now accepts the decision of a constituency which deliberately returns the expelled member, as Northampton did in the case of Mr. BRADLAUGH. The acceptance of the "Chiltern Hundreds" is of course resignation rather than expulsion, though possibly in some cases offered merely as a kinder alternative. Section 32 of the Bankruptcy Act also automatically prevents a bankrupt member from sitting and voting, and the Lunacy (Vacating of Seats) Act, 1886, provides machinery for expelling a lunatic. Various reasons for expulsion on different occasions will be found in "May's Parliamentary Practice," 13th ed., p. 68. The last expulsion was that of Mr. BOTTOMLEY five years ago: see "Commons Journal," vol. 157, col. 1285. It was, of course, held in *Bradlaugh* v. *Gossett*, 1884, 12 Q.B.D. 271, that, in matters relating to its internal management and discipline, the Courts of Law have no power of interference with the House.

(*Concluded.*)

Report of the Land Registry for 1926-27.

THE Report of the Chief Land Registrar on the working of the Land Registry during the financial year 1926-27 makes interesting reading. It is the first report covering one whole financial year since the new Property Statutes came into operation. The account which it gives is that of steady progress made, and the tone in which it is written is that of confident optimism.

The Land Registry comprises three departments, concerned respectively with Land Registration, Land Charges, and Middlesex Deeds.

LAND REGISTRATION DEPARTMENT.

The achievements of this department in the course of the year are summarised in the following words:—"The volume of work has considerably exceeded all previous records; fully State guaranteed titles have completely superseded partially guaranteed titles as the normal form of first registration; the registers have been made more informative as to subsidiary rights; the standard of accuracy has been improved to a finer decimal point; the cost per case to the department has been lowered; the fees charged by the department have been reduced below pre-war level; the surplus, after paying all expenses, is the largest we have had; voluntary first registrations have increased; registration in the new Eastbourne area, though fully State-guaranteed titles only have been granted, has been conducted at a profit in its first year—the period of maximum expense."

The new legislation checked the consistent improvement which was a feature of recent years in the speed with which cases were handled. The lowest average time taken for first registration was 10.8 days in 1925; during 1926 the average time was 15.4 days. The lowest average time for dealing with registered land was six days, taken in 1925; in 1926 the time was 7.4 days. In the later months of 1926, as the contents of the 1925 legislation became more familiar, the time taken was gradually being reduced.

Attention is drawn to what is described as "one of the most significant consequences of the Land Registration Act, 1925," namely, the final disappearance of Possessory Titles, except in rare and quite exceptional cases.

Notwithstanding the reductions made by the Land Registration Fee Order, 1925, in the fees chargeable in respect of registrations, the Land Registrar was able to exercise his discretionary power to remit fees to the public and authorise the department to defray the following expenses, namely: (1) the fees of conveyancing counsel to the court in the special cases referred to them; (2) the cost of notices in the press for registrations in non-compulsory areas; (3) the cost of surveys throughout England and Wales for voluntary applications for registration; and (4), in many cases, solicitors' fees for production of deeds not in the applicant's possession.

The work of registering titles in the new compulsory area of Eastbourne is reported to be progressing satisfactorily and a tribute is paid to the Eastbourne solicitors for their assistance in co-operating with Land Registry officials.

Reference is made again this year to the increase in voluntary registrations. The total number of registered titles is now 327,000, and the estimated value of these is £332,000,000.

LAND CHARGES DEPARTMENT.

The volume of work transacted by this department has, as was expected, enormously increased as the result of the passing of the Land Charges Act, 1925. Thus, the registrations for 1925 numbered 1,530, as compared with 94,374 for 1926. Official searches conducted in 1925 were only 8,591; in 1926 the corresponding number was 269,657. Whilst personal searches were 70,502 for 1925 they had not increased to more than 77,484 for 1926. It is obvious that the time-saving and protective value of the official certificate of search is becoming more generally appreciated. Out of the enormous number of official certificates issued, only ninety-seven complaints were made in respect of alleged errors; but in only five of the ninety-seven complaints were the errors substantial and not merely clerical.

The Land Charges Department is, in the main, responsible for the very large estimated surplus (£100,000) shown on the working of the Land Registry for the year 1926-1927. Reductions have already been made in the fees charged by this department, and it is hinted that "further readjustments of the fee orders in all three departments will become necessary should the revenue continue at its present high level."

MIDDLESEX DEEDS REGISTRY.

It is reported that the decrease expected in the number of registrations in this department, as the result of s. 11 of the Law of Property Act, 1925, was counter-balanced by the registration of a large number of vesting instruments and other documents rendered necessary by the new legislation. The number of official searches in this department seems to have greatly increased during the year, and the average time taken for such searches is now only 1.6 days.

The Chief Land Registrar well deserves to be congratulated on the general success of his administration of the Land Registry during the year 1926-27.

A Conveyancer's Diary.

Applications for Leave to act as "Trust Corporations" for Charitable, Ecclesiastical and Public Trusts.

The L.P.(Amend.)A., 1926, s. 3, contains a new definition of a "trust corporation" for the purposes of the L.P.A., T.A., S.L.A., Ad. of E.A., and the Jud. A., 1925. In addition to the Treasury Solicitor, the Official Solicitor, and any person holding any other official position prescribed by the Lord Chancellor, the term includes the trustee in bankruptcy in relation to the property of a bankrupt, and the trustee under the deed of arrangement in relation to the property subject to a deed of arrangement.

Hence, a single trustee in bankruptcy or trustee of a deed of arrangement disposing of a debtor's property, whether or not it includes land held on trust for sale, can give a valid receipt for purchase money.

Further, in relation to charitable, ecclesiastical and public trusts, the expression "trust corporation" also includes

"any local or public authority so prescribed, and any other corporation constituted under the laws of the United Kingdom or any part thereof which satisfies the Lord Chancellor that it undertakes the administration of any such trusts without remuneration, or that by its constitution it is required to apply the whole of its net income after payment of outgoings for charitable, ecclesiastical or public purposes, and is prohibited from distributing directly or indirectly any part thereof by way of profits amongst any of its members, and is authorised by him to act in relation to such trusts as a trust corporation."

Corporations holding land on charitable, ecclesiastical and public trusts who desire to be classified in the category of trust corporations and thereby be enabled, as sole trustees, to give valid receipts for purchase money on sale of land, have to apply for leave so to act. Such application must be made on forms of application to be obtained from the Lord Chancellor's office, and which must be sent in in duplicate. As a considerable number of bodies are likely to seek advice as to whether or not they should apply for such leave, it may be as well to indicate the nature of the particulars required for making a successful application.

The information to be supplied on the forms includes:—

(*a*) the qualification of the applicant for authorisation to make the application on behalf of the corporation;

(*b*) particulars of incorporation of the corporation under the laws of the United Kingdom;

(*c*) the resolution or power under which the application is made;

(*d*) the nature of the governing instrument of incorporation, e.g., whether a charter or articles of association, or otherwise;

(*e*) a statement that it administers the trusts without any remuneration or that it is required to apply the whole of its net income for the trust purposes and cannot distribute any profits amongst its members (giving the particular article of the governing instrument which specifies this requirement).

(*f*) a statement that the corporation issues annual balance sheets to members;

(*g*) the remuneration, if any, taken in respect of the administration of the trusts;

(*h*) the authority to sign on behalf of the corporation;

(*i*) a general description of the aims and objects of the corporation; and

(*j*) any general observations which appear material for the consideration of the Lord Chancellor.

The information contained in the application form is made in the form of a declaration under the Statutory Declarations Act, 1835.

The form of application must be accompanied by the following documents:—

(i) A copy of the charter or articles of association or other governing instrument of the corporation;

(ii) specimens of annual balance sheets and profit and loss accounts. The best plan would seem to be simply to send the last accounts sheet published.

Landlord and Tenant Notebook.

The question whether land, which had been let for the purpose of being used as an experiment for growing bulbs was to be regarded as a "market garden" for the purpose of the Agricultural Holdings (Scotland) Act, 1923, was considered by the Court of Session in *Watters* v. *Hunter*, 1927, Sc.L.T., 232, and as the material provisions in the Agricultural Holdings (Scotland) Act, 1923, are similar to those in the Agricultural Holdings Act, 1923, it may be useful to note the above decision.

What is a Market Garden?

"Market garden" is defined in s. 57 (1) of the Agricultural Holdings Act, 1923, and the definition is identical with that contained in s. 49 (1) of the Scottish Act as meaning "a holding cultivated wholly or mainly for the purpose of the trade or business of market gardening." The Act does not appear to give any further indication as to the meaning of "market garden," if one excepts however the Third Schedule. That Schedule, which gives a list of the improvements which are subject to the special provisions contained in ss. 48 and 49 of the Act, mentions fruit and vegetables only, and does not refer to flowers at all, so that it might be argued therefrom that the expression "market garden" is only used in connexion with the production of fruit and vegetables, and not of flowers.

There does not appear to be any previous case in which the question has been expressly raised whether land used for growing flowers is to be regarded as a market garden, but such English authority as there is appears to incline to the view that land employed for such a purpose would not constitute a market garden.

Thus, in *Purser* v. *Local Board of Health for the District of Worthing*, 18 Q.B.D. 818, where it was held that land with greenhouses erected thereon constituted a market garden or nursery ground within the meaning of s. 211, sub-s. (1) (*b*) of the Public Health Act, 1875. Lord Esher in referring to market gardens described them as being "for the purpose of growing fruits and vegetables for sale," *ib.*, at p. 822.

In the Scots case of *Gorewar* v. *Moncur's Curator Bonis*, 1916, S.C. 764, however, there are some *obiter dicta* to the effect that a market garden might include land used for the purpose of growing flowers.

Land used for Growing Flowers considered to be (*obiter*) a Market Garden

In this case a piece of ground, measuring about 10 acres, had been let to a tenant who used it for the purpose of growing raspberries, which he sold mainly to jam makers, but occasionally fruit dealers. The whole of the ground was planted with raspberry bushes permanently set out, and it was held, notwithstanding that the lease stipulated that the land was not let and was not to be treated as a market garden, that it was a market garden for the purposes of s. 26 (3) of the Small Landholders (Scotland) Act, 1911.

The judgment of Lord Salvesen in that case is of importance, because of the attempt made to give some indication as to the meaning of the expression "market garden." Thus, Lord Salvesen said, *ib.*, at p. 768: "It is somewhat rash to attempt any definition of what constitutes a market garden. But I should think that a market garden is a piece of ground on which fruit or vegetables *or flowers*, or one or more of these classes of produce, are cultivated for profit." (It was) "argued that variety was of the essence of a garden, and therefore of a market garden. But it does not seem to me that it makes any difference if a man specialises in one particular kind of vegetable or fruit instead of cultivating a variety of these. I think a man may very well be a market gardener who grows only one kind of fruit or vegetables or *flowers*."

It may be said that the above *dicta* are merely *obiter*, and their authority is no doubt to some extent diminished by reason of such an objection. But if Lord Sands' judgment is referred to in *Watters* v. *Hunter*, it will be noted that the view is taken by the learned judge that land used for growing flowers may constitute a "market garden."

Thus, Lord Sands said in his judgment, *ib.*, at pp. 235, 236: "When we are called upon to consider an Act of Parliament which uses ordinary words, it is our duty, in the absence of anything indicatory of the special meaning, to attach to them the meaning which they bear in the ordinary

use of language. . . . I agree, that in accordance with the ordinary use of language, an establishment of the kind we are considering—an *experimental* station for the growing of bulbs—does not fall within the description of a market garden. I desire to reserve my opinion upon the question of flowers . . . I am not clear that a garden in the neighbourhood of a town devoted wholly or mainly to the growing of flowers to be sent to the morning market—whether Covent Garden or the Waverley Market—might not be described as a market garden. I notice that in a charter of Covent Garden Market, granted by King Charles II to the Earl of Bedford, a portion of that market is set aside for the sale of flowers. The charter is quoted in a local Act of 1828 dealing with the market, and in the Act, flowers are again referred to. There is a difference between 'market' and 'sale.'"

Reviews.

The New Law of Property. Third Edition, being a Sixth Edition of "Topham's Real Property." By A. F. Topham, K.C. London: Butterworth & Co. 1927. xxxvii, 428 and 65 pp. 15s.

There could be no better tribute paid to the merit of Mr. Topham's popular work on the new Law of Property than that it should have already reached its third edition, before the legislation which called it into being has been in operation for eighteen months. The statement of law which it contains is so clear and simple, the presentation of it is so convenient, and the type is so varied and at the same time well-arranged, that the student is able to derive from the book the fullest benefit in return for the least expenditure of effort.

In this new edition the principal provisions of the Law of Property (Amendment) Act, 1926 (passed since the publication of the last edition), have been incorporated and the conditions of sale promulgated by the Lord Chancellor and applicable to contracts for the sale of land by correspondence, have been noted and set out in full.

We think that Mr. Topham has appropriately described the true objective which a teacher of the law of real property after 1925 should strive to attain, when he says (on p. 2) that the object of his book is "to state the law as it now is, while showing how far the old law as it existed before 1st January, 1926, still affects present day rights, and referring to the previous history of the law of land only so far as is necessary for the purpose of explaining and rendering intelligible the law now in force."

The only comments which we should like to offer, and which are respectfully made by way of a suggestion rather than a criticism—are (1) that in the attempt to generalise too freely, statements that may mislead readers have been allowed to creep in. Thus, to take two examples, on p. 2, it is explained that "the principal object (of the L.P.A., 1922) was to make the law relating to land and other kinds of property *the same*": —not quite—only in so far as that is possible; and again on p. 40 a pre-1926 special protector of the settlement is described as "any other person . . . or persons who were appointed to be protectors of the settlement by the document which created the entail." (II) References are sometimes made to the Act of 1922 when its provisions have been re-enacted in later statutes. (III) Confusion is introduced by the fact that the present tense is used in certain passages which state the law as it was before 1926, *e.g.*, on pp. 4, 8 ("Law before 1925" on this page should read "Law before 1926.") (IV) It is stated that tenure by frankalmoign may still exist, *e.g.*, on pp. 15, 24; but see Ad. of E.A., 1925, 2nd Sched., repealing s. 7 of the Act for the Abolition of Military Tenures, 1660.

Practice before the Comptroller of Patents and Designs. By Carrol Romer. 2nd Edition. London: Sweet & Maxwell, Ltd. 1926. xvi and 164 pp. 12s. 6d.

The first edition of this admirable practice book was published in 1911. Since that date a new Act—the Patents and Designs Act, 1919—has been passed, new sets of rules—the Patent Rules of 1920 and Designs Rules of 1920—have been made, and a large number of new cases have been decided. Hence the original book has been extensively re-written. The same high standard of accuracy, however, has been maintained, and care has been exercised to preserve the two notable features which characterised the first edition, namely, clearness and terseness. The work may be confidently recommended to those who may be called upon to deal with questions of Patent Law.

Powers of Attorney. Manual on the Law and Practice. Issued by the Council of The Chartered Institute of Secretaries. 1927. pp. viii and 85 (with Index). W. Heffer and Sons, Ltd., Cambridge. 3s. 6d. net.

Such a concise and lucid explanation of the Statute Law relating to powers of attorney as amended by the Law of Property and Trustee Acts, 1925, should prove invaluable to secretaries, bankers and business men, as well as to their legal advisers.

Tolley's Handbook of Income Tax and Super Tax. By Chas. H. Tolley, A.C.I.S. Waterlow & Sons, Ltd., London-wall. Price 9d.

A most useful and comprehensive booklet, showing the changes proposed in the 1927 Finance Bill. W. P. H.

Books Received.

England's Private and Commercial Law in One Volume. Arthur Curti. Medium 8vo, pp. xvi and 245. 1927. Verlag von Julius Springer, Berlin, W.9. 12 marks.

Report to Lord Chancellor on H.M. Land Registry for 1926-27. By The Chief Land Registrar.

A print of this Report can be obtained from H.M. Stationery Office. Price 2d.

Wheeler's Company Tables. 1927. A Ten Years' Summary of the Balance Sheets of the leading Public Companies. Vol. VI. Crown 4to. 171 pp. Arthur Wheeler & Co., Stockbrokers, Leicester. 5s. net.

Income Tax. A Summary of the Law of Income Tax and Super-Tax. F. G. Underhay, M.A. New Edition. 1927. Crown 8vo. 368 pp. (with Index). Ward Lock & Co., Ltd., London and Melbourne. 7s. 6d. net. W. P. H.

The London Solicitors' Golfing Society.

The above society held their summer meeting at Walton Heath on Monday, the 13th inst., in delightful weather, when the following results were obtained:—

Scratch Medal: D. Williams, C. H. Hornby and S. Newman —Tie, 84.

Best Medal Score (handicap limit 11): D. Williams, 84—10—74.

Best Medal Score (handicap limit 12—24): C. E. Strudwick, 92—14—78 (after a tie with S. Cook).

Bogey Competition: C. H. Hornby, 4 up.

After a strenuous day's golf, a dinner was held at the Club House, by the courtesy of the Committee of the Walton Heath Golf Club, when the members were the guests of Lord Riddell, the President of the society. There were about sixty competitors, which constitutes a record entry for the society.

Members are urgently needed and application should be made to H. Forbes White, Honorary Secretary and Treasurer, Bank-buildings, Ludgate-circus, E.C.4.

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of the paper only, and be in triplicate. Each copy to contain the name and address of the Subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.

DOWERESS AND EIGHT CO-PARCENERS—SALE—TITLE.

827. *Q.* By a conveyance dated 11th December, 1902, a piece of land was conveyed to J S in fee simple. J S died intestate on 6th October, 1913, leaving a widow and eight daughters who are now all *sui juris*. In June, 1925, the widow and daughters mortgaged the property to a building society. The property has now been sold by public auction. In whom is the legal estate now vested, and who will convey the property to the purchaser? Before the 1st January, 1926, the legal estate was held by the widow (as doweress) and the daughters as co-parceners; and on the 1st January, 1926, it vested in the parties as joint tenants upon the statutory trusts. The 1st Sched., Pt. IV, para. 1 (2), of the L.P.A., 1925, reads: "If the entirety of the land (not being settled land) is vested absolutely and beneficially in not more than four persons of full age entitled thereto in undivided shares free from incumbrances . . . it shall vest in them as joint tenants upon the statutory trusts." Will it be correct for the widow and three of the daughters to sell as joint tenants upon the statutory trusts (as defined by s. 35 of the L.P.A., 1925), or is it necessary to apply to the Public Trustee to accept the trust and convey to the purchaser? Will you please refer me to the appropriate precedent for use in this case. As the purchase money is only £250 and the mortgage is £180, it is important to do the work at the least possible expense.

A. The first problem that arises on this question is whether the daughter co-parceners were joint tenants or tenants of undivided shares. This is discussed in the answer to *Q.* 702, p. 189 *ante* and, in the absence of authoritative decision, must be considered doubtful. The opinion has previously been given in these pages (see "A Conveyancer's Diary," Vol. 70, p. 723) that land subject to dower is not settled land. If the co-parceners are joint tenants they hold on trust for sale under the L.P.A., 1925, s. 36 (1), and can convey the legal estate with the concurrence of the doweress: see Vol. 70, p. 724. If the co-parceners were persons possessed of undivided shares on 31st December, 1925, the property vested in the Public Trustee under the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), but he can be divested by the appointment of new trustees under para. 1 (4) (iii): see L.P. (Am.) A., 1926, Sched. In the circumstances it is suggested that the widow and all the daughters should appoint not more than four trustees for sale (whether some of themselves or otherwise) by virtue of all the powers enabling them which would include para. 1 (4) (iii) in one alternative, or the T.A., 1925, s. 36 (1), in the other (for the latter case the daughters not to be appointed trustees reciting their desire to retire from the trusts). The mortgagees will, of course, join to release their term.

SETTLED LAND—LAND SUBJECT TO ANNUITY—DEATH OF TENANT FOR LIFE—TITLE.

828. *Q.* A.B. died in 1908, owning freehold and leasehold properties and investments, and appointing his son, C.D., and one E.F. trustees and executors. By his will A.B. gave to his daughter, T.S., an annuity of £100 for her life without power of anticipation, and directed that a sufficient sum of money should be invested to provide the annuity, and should on the cesser fall into the residue. A.B. gave all the residue of his estate to his said son, C.D., absolutely. E.F. absconded, and in 1914 G.H. was appointed a trustee jointly with C.D. No sum of money was specially invested to answer the annuity, but C.D. has always paid it. The annuitant is still living, but C.D. has just died. His executors wish to sell the freehold and leasehold properties, and out of the purchase moneys will invest a sum to answer the annuity. Will the sale be by the trustees under A.B.'s will or by C.D.'s personal representatives under C.D.'s will? If the former, it is assumed that a new trustee of A.B.'s will must be appointed to act jointly with G.H. and will a vesting deed or vesting assent be necessary. It is suggested that under A.B.'s will the freehold and leasehold property vested absolutely in C.D. subject to payment of the annuity, and that C.D.'s personal representatives can now sell without any fresh appointment of a trustee or any vesting deed.

A. The first question which arises is whether, until the annuity fund is raised, the annuity is charged on the land, and this will depend on provisions in the will which are not stated. If the annuitant's remedy for non-payment is against the personalty only, excluding leaseholds, C.D's executors have a clear title, for, if the fee and the terms were not legally vested in him on 31st December, 1925, they became so on 1st January, 1926, under the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*d*). But if and so far as the annuity was charged on any such land, it became "settled land" within the S.L.A., 1925, s. 1 (1) (v), and C.D. was tenant for life under s. 20 (1) (ix). The special representatives in respect of such land would then be found by reference to the A.E.A., 1925, s. 22 (1), the S.L.A., 1925, s. 30 (3), and the A.E.A., 1925, s. 7. The issue might depend on whether E.F. survived C.D., and if as surmised, E.F. cannot be found, probably grant would be made (perhaps after citation under the A.E.A., 1925, s. 5 (ii), see "Tristram's Probate," 16th ed., pp. 356-357), in respect of the settled property to C.D.'s executors. Their duty, since the annuity would still remain charged and the land would still be settled, is indicated in the S.L.A., 1925, s. 7 (1), but if the persons entitled under C.D.'s will desire them to do so, they can sell as special representatives.

LANDLORD AND TENANT—IMPLIED CONTRACT TO KEEP IN REPAIR—BREACH—LOSS TO SUB-TENANT—REMEDY.

829. *Q.* A became tenant of a house in a borough with a population of over 50,000 persons at a rent of 8s. 6d. per week, situate in an urban area, subsequent to the 3rd December, 1909. B at the beginning of December, 1926, took two unfurnished rooms from A, the tenant, one on the ground floor and one on the first floor, at a weekly rent of 5s. 6d., and furnished the rooms with his own furniture. At the time B entered into occupation of the said rooms the chimney of the room on the ground floor was defective. The bricks at the back of the fire in that room were all loose and the fire bars broken. Both A and B prior to the 1st April, 1927, had spoken to the landlord about it on several occasions, but he has done nothing to put the defect right. On the 1st April, 1927, smoke was noticed coming from the back of the mantelpiece in the ground floor room, and B then had the chimney swept. On the 6th April at 5 p.m. B lighted the fire and retired to bed on the morning of the 7th April, at 1 a.m., when nothing was wrong. At 6 a.m. that morning a bang was heard, and B went down and found the room full of smoke and flames coming out of the side of the fire-place into a recess where a couch was standing with a lot of clothes, etc., under it. The fire gutted the room and destroyed the whole of B's furniture, therein amounting in value to over £30. The following points arise:—

(1) Is B entitled to damages from the superior landlord for the loss of his furniture, provided he can prove that that loss

is attributable to the defective condition of the chimney under the implied condition that the house was not in all respects reasonably fit for human habitation under s. 1 of the Housing Act, 1925, or can A, the tenant, only claim damages for breach of that condition, and, if so, can A maintain an action for the loss occasioned to B ?

(2) Has B any claim for damages against A on the grounds (i) That A was B's landlord, and was bound to keep the two rooms sub-let to B reasonably fit for human habitation under the above section, and having had notice of the defect is liable in damages for breach of the said implied condition. If so, is A entitled to be indemnified by the landlord ? Or (ii) That A having notified the landlord, who failed to put the defect right, failed himself to put the defect right, and charge the expense for so doing to the landlord ? Or (iii) That A failed to notify the local authority of such defect in order that the local authority might serve upon the landlord notice requiring him to make the defect right as provided for by s. 28 of the Housing, Town Planning, etc., Act, 1919 ?

A. (1) On the authority of *Ryall* v. *Kidwell*, 1914, 3 K.B. 135, and cases there cited, B, not in contractual relation with the superior landlord, cannot in the circumstances sue him for the damage suffered. And A cannot sue his superior landlord if he, A, has suffered so damage.

(2) On the facts stated, the opinion is here given that B would have a good cause of action against A under s. 1 of the Housing Act, 1925. If B recovered against A, A would then have suffered damage, but the superior landlord would be protected by the proviso to s. 1, *supra*. There is nothing in the Act requiring notification of want of repair, either to the local authority or to the superior landlord as a condition precedent to sue. In fact, it has very recently been held that no such notification need be given to the landlord, see *Fisher* v. *Walters*, 1926, 2 K.B. 315, but in that case there was the distinction that the defect was latent.

No doubt a room without a fireplace might be deemed "reasonably fit for human habitation" within s. 1, *supra*, but the opinion is here given that, if there is a fire-place, the room is not habitable unless it is in proper repair and fit for use. This point, however, is not without its difficulty, and, apart from the Act, the landlord has no obligation to keep the premises in repair. As to the standard of repair required by the statute, see *Jones* v. *Geen*, 1925, 1 K.B. 659, pp. 668-669.

SETTLED LAND—DEATH OF TENANT FOR LIFE—TITLE.

830. *Q.* A.B. by his will, dated 1880, appointed C.D. and E.F. executors and trustees and, *inter alia*, devised to them certain freehold property, Blackacre, upon trust to pay the rents and profits thereof to his son G.H. for life. He gave G.H. power to appoint by deed or will in favour of all or any of his (G.H.'s) children. A.B. died in 1880, G.H. received rents and profits until death and died 1926, and by his will he appointed Blackacre in favour of certain of his children. The will of G.H. was proved in 1927. E.F., the surviving trustee of A.B., died in 1921, a widow, intestate, and the said G.H. (her brother) took out letters of administration to her estate. G.H. thereupon as such personal representative by a deed of appointment of new trustees appointed J.J. and K.K. to be new trustees under the will of A.B. and both are still alive. An estate duty account has been rendered by J.J. and K.K. and estate duty paid on Blackacre, as passing on the death of G.H., the life tenant. Blackacre has now been sold. Who are the parties to convey ? Can J.J. and K.K. convey, or will it be necessary for them to first take out a grant of administration, limited to Blackacre, to clothe themselves with the necessary power. There has not been any assent in favour of G.H. since 1st January, 1926.

A. In the circumstances above, there is no personal representative of A.B., and, assuming that trustees of his will for the purposes of the S.L.A., 1925, cannot be found under s. 30 (1), there are therefore no special representatives of G.H. within the A.E.A., 1925, s. 22 (1). This being so, the probate authorities' practice is to grant representation in respect of the settled property to the executors of the tenant for life. But the grant in respect of the settled property, to whomsoever made, is indispensable for the title. After the grant, the special representatives can sell under the L.P.A., 1925, 1st Sch., Pt. IV, para. 2, which will probably be more convenient and cheaper than conveying to the beneficiaries under the S.L.A., 1925, s. 7 (5), in order that they may sell. J.J. and K.K. as ordinary trustees of A.B.'s will have no *locus standi*.

LETTERS OF ADMINISTRATION AS DOCUMENTS OF TITLE.

831. *Q.* In the reply to *Q.* 718 it is stated that letters of administration granted on 19th of May, 1922, should have been the subject of an acknowledgment for production in a conveyance by the administrator. If an open contract, surely the vendor's solicitor should on approving the draft decline to allow his client to give an acknowledgment, as the letters of administration come under the heading of documents of record. If the contract incorporated the General Conditions of 1925, the matter would be governed by s. 34 (5), and it would appear that the vendor should not give an acknowledgment. If the foregoing assumptions are correct what should be done in the case of an open contract where a solicitor is acting for both vendor and purchaser ?

A. If the questioner, will refer to the last question on p. 9, vol. 70, he will see fully set forth in the answer the reasons why an acknowledgment should now be required in the case of grants of probate and letters of administration. The short reply to his point is of course that the official record gives no clue to the memoranda endorsed on any such probate or letters of administration under the A.E.A., 1925, s. 36 (5), of which a purchaser has constructive notice under sub-s. (6). In a contract under the Law Society's conditions, cl. 34 (5) expressly requires the acknowledgment, but, having regard to the provisions of the A.E.A., 1925, s. 36 above, the opinion here given is that a purchaser under an open contract is also entitled to an acknowledgment. If therefore a solicitor is acting for both vendor and purchaser he should provide for the acknowledgment which is of value to the purchaser, and not onerous to the vendor.

ACKNOWLEDGMENT FOR PRODUCTION OF PROBATES AND LETTERS OF ADMINISTRATION.

832. *Q.* With respect to Q. 831, my point is to distinguish between probates or letters of administration granted before the 1st January, 1925, and those granted after. Clause 34, (5) of the Law Society's Conditions by inference states, that it would not be incumbent upon any vendor to give an acknowledgment in respect of probates or letters of administration granted before that date. Relying on this I have consistently struck out acknowledgments for probates or letters of administration granted before the 1st of January, 1925, annexing the words "Document of record." My mind is quite clear on the point of those granted after the date named would have to be always included in an acknowledgment. I regret taking up your time but I should be glad to get the matter settled.

A. If the questioner will refer to the answer to *Q.* 718, pp. 226-7, *ante*, he will see that, under the title there considered, there was possibility of assent being made after 1925, although the letters of administration had been granted in 1922. Had it been made after 1925, s. 36 of the A.E.A., 1925, would have applied by the express provision of sub-s. (12), and sub-ss. (5) and (6), would give a purchaser express notice of any endorsement. Obviously therefore, he ought to have an opportunity of seeing the document. Where this possibility of post-1925 assent is absent, the old practice may, no doubt be followed with safety.

COVENANT IN CONVEYANCE OF FREEHOLDS TO REGISTER FUTURE DEALINGS WITH SOLICITORS TO VENDORS—WHETHER BINDING FUTURE PURCHASERS.

833. *Q.* In the conveyance in fee simple of a plot (part of a building estate), dated in 1921, among the stipulations to

which the property was subject is a stipulation that all conveyances (except mortgages) and leases exceeding twenty-one years, and assignments of such leases, should be registered with the solicitors of the then vendors, and a fee of ten shillings and sixpence paid for such registration. The solicitors of the vendors state that the object of this covenant is in order to enable them to trace the owners of the various plots liable to pay for the roads when taken over by the public authorities. Would such a covenant be enforceable or would a purchaser for value (not the original covenantor) be safe in disregarding such covenant ?

A. The law laid down in *Austerberry* v. *Oldham Corporation*, 1885, 29 Ch. D. 750, that covenants involving expenditure do not run with land, is not affected by the L.P.A., 1925, and a purchaser from the original purchaser will not therefore be directly bound by the covenant above, though indirectly he will be if he enters into a similar covenant with his own vendor, and indemnifies the latter in respect of the original covenant.

SETTLED LAND—DEATH OF TENANT FOR LIFE—TITLE.

834. *Q.* A, by her will dated 1909, appointed B and C executors and trustees of her will, and after making certain pecuniary and specific bequests, gave all her real estate to B and C upon trust to pay the net rents and income arising therefrom to her husband D during his lifetime and from and after D's death testatrix directed B and C to sell and convert into money the whole of her real estate, either by public auction or private contract, and to pay the proceeds as therein mentioned. A died in March, 1924. B and C proved the said will in May, 1924. B died in December, 1924. D died in March, 1927. C has now sold the real estate to a purchaser.

(1) Can C, as the surviving personal representative, convey the real estate to the purchaser ?

(2) Is any vesting deed required in respect of the real estate ?

(3) If C cannot convey to the purchaser, who is or are the proper parties to convey to the Purchaser ?

A. (1) This will depend on whether a judge would have found as a fact that, by 31st December, 1925, A's executors had impliedly assented to the settled residuary devise or otherwise. If so, the legal estate shifted to D on 1st January 1926, under the L.P.A., 1925, 1st Sched., paras. 3 and 6 (*c*), and is now vested in his special personal representatives if they have obtained probate in respect of the settled property; see A.E.A., 1925, s. 22 (1), if he died testate, and the J.A., 1925, s. 162, if he died intestate. If he died intestate and no grant has been made, the property is vested in the Probate Judge, see A.E.A., 1925, s. 9. If D never received the rents for his own benefit assent would probably not be implied, and C as executor could sell, see A.E.A., 1925, s. 36, (6), (8), and (12), L.P.A., 1925, s. 27 (2) (as slightly amended by the L.P. (Am.) A., 1926). See also S.L.A., 1925, 2nd Sched., par. 2, (3) (*a*), and (5).

(2) No, the land has ceased to be settled land, and is now subject to a trust for sale.

(3) C will be special representative, as trustee for the purposes of the S.L.A., 1925, see s. 30 (1) (iv), and should appoint another trustee of the will and convey to himself and that other trustee upon trust for sale under s. 7 (5), when the title will be in order.

CHARITABLE PURPOSES—TEMPERANCE HALL—APPOINTMENT OF NEW TRUSTEES.

835. *Q.* Certain freehold premises were purchased many years ago to be used as a temperance hall, and a conveyance and trust deed was executed conveying the premises to a number of trustees. The trusts provided that no intoxicating liquor should be sold or consumed on the premises, and that the premises might be used or let for a temperance hall or assembly rooms, and that in the event of a sale the proceeds should be used for temperance purposes, a wide definition of that term being inserted. The deed contained a power of sale and a declaration that the power of appointing new trustees conferred by the T.A., 1893, should apply. It is desired to appoint new trustees, many of the old trustees having died. The trusts do not appear to be for charitable, ecclesiastical or public purposes within the meaning of s. 34 (3) (*a*) of the T.A., 1925. Can trustees be appointed under that Act, and, if so, can more than four be appointed and a declaration be inserted limiting the implied statutory vesting declaration to four of the trustees appointed (naming them) ? It is desired to have at least ten trustees as a means of interesting as many persons as possible in the trust and to deal with the proceeds of sale in the not unlikely event of the property being sold.

A. The question whether the above trust was a charitable one could not be reliably answered without a sight of the deed, and careful consideration of the objects set forth. The legal definition of charitable purposes is, however, so wide that *primâ facie* an institution to encourage temperance should be within it: see such cases as *Re Scowcroft*, 1898, 2 Ch. 638 (a village club and reading room "to be maintained for the furtherance of Conservative principles and religious and mental improvement and to be kept free from intoxicants and dancing"), and *Re Slatter*, 1905, 21 T.L.R. 295 (vegetarianism). The application of the T.A., 1925, s. 34 (3) (*a*), will depend accordingly, but s. 36 applies to any lawful trust, subject to s. 34 (1). If the object is not charitable, the trust would appear to be void as a perpetuity. The questioner says nothing as to the Mortmain Acts, but the necessary enrolment could only have been made on the footing that a trust was a charitable one.

The supplementary particulars supplied appear to relate to the powers of the trustees in administering the proceeds of sale, and not in holding the premises. The questioner may be referred to *Re Mann; Hardy* v. *A.-G.*, 1903, 1 Ch. 232, as to a village hall, though no question there arose as to temperance purposes. These are not necessarily charitable: see *I.R. Commissioners* v. *Temperance Council, etc.*, 1926, 42 T.L.R. 618—from which, however, the present case appears to be readily distinguishable. If the conveyance and trust deed (being one deed) was not enrolled within six months of its execution, and the purposes were charitable, it was void, at least as an assurance of land, under the Mortmain and Charitable Uses Act, 1888, s. 4 (1) and (9). The vendors, however, are presumably barred by the Statutes of Limitation and the trustees hold the legal estate subject to a trust which, on the evidence, probably would be held enforceable against them. In the circumstances the appointment of new trustees with the trusts repeated, and the despatch of the conveyance to be recorded by the Charity Commissioners pursuant to the S.L.A., 1925, s. 29 (4) (in lieu of the enrolment required under the previous law) appears to present a solution of the difficulty. If, on the other hand, the purposes of the deed were not charitable, the conveyance would be valid, but the trust would be void as constituting a perpetuity. In such case there would presumably be a resulting trust in favour of subscribers of the purchase money. If so, the statute would not have run against them, nor, perhaps, could it begin to run if the trustees or their successors now declared a good charitable trust, which, theoretically, would be bounty on their part out of other people's property. The proposed declaration, however, would make a good root of title with the recital that the property was vested in the former trustees, who conveyed it on the trusts declared, and the chance of any original subscriber making a claim would probably be regarded as negligible.

836. *Q.* With respect to *Q.* 835, the property was conveyed to the trustees upon trust for temperance purposes and upon further trust to use as a temperance hall or assembly rooms or to let the premises for the like purposes, and the expression "for temperance purposes" was defined as including, but without limiting its meaning, the various objects set out in

my last letter. I propose to carry out the present appointment of new trustees by a conveyance to them, in which the trusts will be repeated. The further point will then arise as to who should convey, and I take it that under s. 34 of the L.P.A., 1925, the first four trustees named in the deed of the 27th September, 1906, who are still surviving, will be the conveying parties as trustees for sale.

A. All the surviving trustees should convey, and the legal estate will pass under the L.P.A., 1925, s. 63. It seems of considerable doubt whether the trusts, as they stand, are wholly charitable, having regard to *I.R. Commissioners* v. *Temperance Council, etc.*, quoted in *Q.* 835, and the suggestion made in the the answer that they should be re-modelled should be carefully considered.

UNDIVIDED SHARES—TWO TENANTS IN COMMON—DEATH OF ONE BEFORE 1926 INTESTATE—LETTERS OF ADMINISTRATION GRANTED AFTERWARDS—TITLE.

837. *Q.* In 1921 two brothers, A and B, purchased a freehold cottage, finding equal shares of the purchase price, and it was conveyed to them as tenants in common in equal shares. A was a bachelor, B a married man. They both lived in the cottage, each occupying separately one-half of it. A died in September, 1925, intestate, leaving (besides B) several brothers and sisters, C, the eldest brother, being his heir-at-law. On 5th March, 1927, letters of administration were granted to B, C having previously died intestate a widower, leaving three children all of age. The next of kin have agreed to a sale of the whole of A's property and division of the proceeds equally between them. The question arises whether, having regard to the date of A's death being prior to, and the date of the grant of administration after, the 1st January, 1926, the position is affected by the provisions of Pt. IV of the 1st Sched. to the L.P.A., 1925, so far as the vesting of the legal estate in the real property is concerned. It is apprehended that it can be argued that on 1st January, 1926, the property in question was held in undivided shares by B and C (the latter entitled as A's heir at law), as postulated in the first paragraph of 1st Sched., Pt. IV, and if this is so, it would appear to have vested under para. 1 (4) in the Public Trustee upon the statutory trusts. On the other hand, it seems to us it might be contended that in the circumstances stated this was not land held in undivided shares at the commencement of the Act, and that B can by himself give a good title to the whole of the property both at law and in equity. Will you please advise what, in your opinion, is the position, and how a good title to the land can be made to a purchaser?

A. On the death of A his real property vested in his heir, subject to be divested by the grant of letters of administration, see *John* v. *John*, 1898, 2 Ch. 573, and *re Griggs*, 1914, 2 Ch. 547. Since this was the situation on 1st January, 1926, and C, the heir, took beneficially, it is arguable that Pt. IV, para. 1 (2) operated to give B and C a trust for sale. A's share, however, had presumably not been cleared from death duties on 1st January, 1926, and they therefore remained charged. In these circumstances the opinion is here given that, since C's share was subject to this charge, he did not take absolutely and beneficially within para. 1 (2) *supra*, so 1 (4) would be applicable, and the legal estate in the whole cottage became vested in the Public Trustee. The grant of letters of administration to B in respect of A's estate has not divested him, and the only way this can be done is by appointment of trustees under para. 1 (4) (iii) by B and any one or more of C's three children. On such appointment the appointees could give good title. It is assumed in the above answer that C died after 1925.

A UNIVERSAL APPEAL.

TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.

House of Lords.

Woolwich Corporation *v.* Roberts.

23rd May.

LOCAL GOVERNMENT—METROPOLITAN BOROUGH—WAGES OF EMPLOYEES—MINIMUM WAGE—ILLEGAL PAYMENT—SURCHARGE AND DISALLOWANCE BY AUDITOR.

The Metropolis Management Act, 1855, *does not give a Metropolitan borough council an unlimited discretion to pay to its employees as wages any sums which the majority of the council may approve, and in case of excessive payments beyond a reasonable remuneration, the district auditor is entitled to find such payments to be illegal and to surcharge the excess.*

This was an appeal against an order of the Court of Appeal affirming an order of the Divisional Court, which discharged an order of *certiorari* to quash a disallowance and surcharge made by the district auditor against the Woolwich council. The case had to do with payments made to employees and the real question was as to the payments made to the lowest grade. The Fulham scheme of payments, established an absolute minimum rate without any sliding scale, and this scheme was adopted by the appellants. The Joint Industrial Council provided another scheme, namely, a sliding scale according as wages went up or down. The appellants purported to adopt this scheme, but what they did was this:—When the latter scale provided better terms they followed it, but if it went below the minimum of the Fulham scale, they adopted the Fulham scale. So that when the year 1924 was reached, the payment was 11s. 4d. greater than if the council's scale had been adhered to. The auditor did not surcharge the whole of that amount, but only 3s. 11d. of it, which *in toto* amounted to £8,000. The appellants contended that the wages paid were lawfully paid in the *bona fide* exercise of their discretion.

Lord DUNEDIN said the law on the subject was finally disposed of by the decision of that House in *Roberts* v. *Hopwood*, 1925, A.C. 578. It was argued in that case that s. 62 of the Metropolis Management Act, 1855, conferred an absolute right, but the judgment of the House was that, although the Act conferred a discretion, it must be a reasonable discretion. The Woolwich Council relied on one sentence in the Industrial Council's scheme, as distinguishing their case from the Poplar case. It was this:—"Existing privileges to continue. Nothing contained in the wages scheme shall operate to reduce the present wages of any employee in a borough where better conditions prevail." Their argument was that they adopted the Industrial Council's scheme, with that proviso, and that the result of the proviso was to continue the Fulham scheme whenever it was better than the other. His lordship thought that that was a wrong way of looking at it. Neither scale had any real authority, but they operated as a practical guide when the question of what was reasonable came to be considered. The auditor had found that the appellants had treated the Fulham minimum as a minimum for all time, and had paid wages in excess of what was right. The appeal should be dismissed with costs.

The other noble and learned lords concurred.

COUNSEL: *Birkett*, K.C., and *Arthur H. Davis*; the respondent appeared in person.

SOLICITORS: *Sir Arthur Bryceson; Last, Riches & Fitton.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Seymour *v.* Reed. 24th May.

INCOME TAX—PROFESSIONAL CRICKETER—PROCEEDS OF BENEFIT MATCH—GIFT OR PROFIT—WHETHER ASSESSABLE.

The net proceeds of gate money from a professional cricketer's benefit match are not remuneration for services, but a personal gift, and are not assessable to income tax.

The appellant Seymour was a professional cricketer in the employment of the Kent County Cricket Club, and in 1920 a

match was played at Canterbury for his benefit, the net proceeds derived therefrom amounting to £939. By the club's regulations the committee reserved to themselves an absolute discretion as to benefit matches and dealing with the net proceeds. If a professional was granted a benefit it was granted on the express understanding that he should allow the proceeds to be invested in the names of the trustees of the club during the pleasure of the committee. The income derived from the proceeds invested was paid to the beneficiary. The invested sum was, however, always eventually handed over to the professional cricketer when his career as a cricketer was over, or when he found an investment, such as a share in a business or farm, of which the trustees approved. The net proceeds derived from the benefit match were invested by the club and the dividends received by the club, less tax, were paid over to the appellant. Certificates of deduction of tax were furnished by the club to the appellant, who preferred claims for repayment. In 1923 the investments were realised and the proceeds were paid by the club to the appellant and applied by him, with the approval of the trustees, to the purchase of a farm. The appellant was assessed under Sched. E in the sum of £939 in respect of the net proceeds derived from the benefit match. On appeal the Commissioners discharged the assessment and their decision was affirmed by Rowlatt, J., but the Court of Appeal by a majority reversed his decision, and this appeal to the House was then brought.

The LORD CHANCELLOR said the question was whether the sum of £939 fell within the description in r. 1 of Sched. E of "salaries, fees, wages, perquisites or profits." It must now be taken as settled that they included all payments made by way of remuneration for services, even though such payments might be voluntary, but that they did not include a mere gift made on personal grounds. The terms of the employment did not entitle the appellant to a benefit, though they provided that if a benefit were granted the committee should have a voice in the application of the proceeds. The purpose of a benefit was not to encourage the cricketer to further exertions but to express the gratitude of his employers and the cricket-loving public for what he had already done and their appreciation of his personal qualities. It was usually associated, as in this case, with a public subscription, and just as those subscriptions were plainly not income-taxable as such, so the gate moneys were to be considered as in the same category. If the benefit had taken place after Seymour's retirement, no one would have sought to tax the proceeds. The circumstance that it was given before but in contemplation of retirement did not alter its quality. The money was a testimonial, not a perquisite; it was not remuneration for services but a personal gift. The appeal therefore should succeed and the order of Rowlatt, J., should be restored, with costs here and below.

Lords DUNEDIN, PHILLIMORE and CARSON concurred, but Lord ATKINSON differed.

COUNSEL: *Sir J. Simon*, K.C., and *W. T. Monckton*; *The Attorney-General* (Sir D. Hogg, K.C.), *The Solicitor-General* (Sir T. Inskip, K.C.), and *R. P. Hills*.

SOLICITORS: *Halsey, Lightly & Hemsley*; *The Solicitor of Inland Revenue*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

Court of Appeal.

No. 1.

In re **Paget**; *ex parte* **The Official Receiver.** 29th April.

BANKRUPTCY—PUBLIC EXAMINATION OF DEBTOR—REFUSAL TO ANSWER QUESTIONS PUT BY OFFICIAL RECEIVER—DUTY TO MAKE FULL DISCLOSURE OF ALL MATERIAL FACTS—PUBLIC INTERESTS—BANKRUPTCY ACT, 1914 (4 & 5 Geo. 5, c. 59), ss. 15 (8), 26, 73.

On the public examination, in bankruptcy, of a debtor, he is bound to answer all questions which the court may put or allow to be put to him, and cannot be excused from making the fullest disclosure of all material facts on the ground that such disclosure might be inconvenient to him, or even tend to incriminate him.

In re Atherton, 1912, 2 K.B. 251, *applied*.

Appeal from a decision of Clauson, J., refusing to commit a debtor for a refusal to answer questions as to his true identity put to him by the Official Receiver. The Official Receiver appealed. The facts are fully stated in the judgment of the Master of the Rolls.

Lord HANWORTH, M.R., said that the application must be granted. It arose on a matter of public importance, but too great significance should not be attached to it. The debtor came up for public examination in December, 1926, under the provisions of the Bankruptcy Act, 1914, the purpose of the examination being not only for the collecting of debts on behalf of the creditors, but also for the protection of the public. It would be a mistake to concentrate too much on the aspect of debt collecting and distribution of assets. His lordship read s. 73 of the Bankruptcy Act, 1914, showing that it was the duty of the Official Receiver to investigate the conduct of the debtor and to report the result to the court. It was plain that the duty was a wide one and the correlative duty of the debtor, after the report had been made, was to show that he was entitled to his discharge, which he could not do unless he made a full disclosure of all the facts. It had been decided by Phillimore, J., in *In re Atherton*, 1912, 2 K.B., 251, that a debtor was bound to answer all questions put to him, or allowed by the court to be put to him, touching his conduct, dealings and property, even though the answers might tend to incriminate him. In the present case the debtor, under his name of Richard Paget, made certain answers in his earlier examination in December, 1926. In February, 1927, he made a statement in writing, in which he said that his full name was Vivian Percy Broughton, and admitted his identity with a person of that name who was charged with an offence at Brighton in 1908, and sentenced to a term of imprisonment. He said that he had been known as Richard Paget for the last twenty-five years or so. Inasmuch as his original statements were incomplete, inaccurate, and, as to some of them, untrue, it was very necessary for the Official Receiver to investigate the true facts, and it was alleged that the debtor was concerned in a large transaction, which required investigation, as to the sale of a ship. He refused to produce any evidence that he was ever in the Army, and said that the name he had enlisted under was entirely his own affair. On those facts it would be quite impossible for a proper report to be made by the Official Receiver unless the gap in the history of the debtor's life from 1916 to 1919 was filled in. Clauson, J., no doubt from motives of compassion, tried to see if the debtor could be excused from answering the questions and made some examination of him in the absence of the Official Receiver, who was not only entitled, but whose duty it was, to be there. By s. 15 (8):—"The debtor shall be examined upon oath and it shall be his duty to answer all such questions as the Court may put or allow to be put to him. Such notes of the examination as the Court thinks proper shall be taken down in writing, and shall be read over either to or by the debtor, and signed by him, and may thereafter, save as in this Act provided, be used in evidence against him; they shall also be open to the inspection of any creditor at all reasonable times." The court thought that the judge, who, apparently, had not had his attention called to the decision in *In re Atherton*, *supra*, failed to appreciate the situation. The reasons he gave were not a complete survey of the rights and duties of the Official Receiver and excluded a side of bankruptcy law which that court was constantly dealing with. It was not only the creditors, but also the public that must be safeguarded. The proper course was to remit the case back to Clauson, J., to deal with. It was quite plain that the questions ought to be answered. The judge should allow a few days to elapse before the resumption of the public examination to give the debtor an opportunity of

considering the matter, and of making a full disclosure, such as was most desirable in the debtor's own interest, of all his proceedings.

COUNSEL: *Sir Thomas Inskip*, K.C. (S.-G.), and *Roland Burrows*.

SOLICITOR: *The Solicitor to the Board of Trade.*

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

Attorney-General *v.* Paine. 24th May.

INSURANCE (UNEMPLOYMENT)—EMPLOYEES' CONTRIBUTIONS—FAILURE BY EMPLOYER TO PAY—SUMMONS FOR ARREARS—ORDER FOR PAYMENT—INFORMATION TO RECOVER PREVIOUS ARREARS—JURISDICTION TO ORDER PAYMENT—UNEMPLOYMENT INSURANCE ACT, 1920, 10 and 11 Geo. 5, c. 30, s. 22, sub-ss. (2), (3), (6).

Where an employer who is liable to pay contributions in respect of workmen under the Unemployment Insurance Act, 1920, has been summoned for failure to pay contributions for the previous year in respect of certain men, and has been fined for non-payment and ordered to pay the unpaid contributions, such payments are not to be taken in satisfaction of all arrears of contributions in respect of the same men, and the Minister of Labour is not precluded from taking civil proceedings to recover any other or earlier arrears due to the Unemployment Fund.

Appeal from a decision of Rowlatt, J.

The Attorney-General, on an information, claimed from E. J. Paine, of Wisbech, the sum of £5 0s. 2d., being the balance of arrears of contributions alleged to be payable in respect of two men employed by E. J. Paine between 14th April, 1924, and 4th February, 1926. The full amount of unpaid contributions in respect of the two men was £10 15s. 11d., but on 22nd April, 1926, the respondent was convicted on two informations for non-payment of contributions in respect of them and was ordered, after due notice, to pay, and had paid, the sum of £5 3s. 1d., being a sum equal to the amount of the contributions unpaid for twelve months preceding the informations. Credit was also given for stamps irregularly affixed to the value of 12s. 8d. The respondent contended that the payment of the amount ordered by the justices was a satisfaction of his liability by virtue of s. 22 (3) of the Unemployment Insurance Act, 1920, which provides:—"Where an employer has been convicted under the foregoing provisions of this section of the offence of failing or neglecting to pay any contributions under this Act, he shall be liable to pay to the unemployment fund a sum equal to the amount which he has so neglected to pay, and on such a conviction, if notice of the intention to do so has been served with the summons or warrant, evidence may be given of the failure or neglect on the part of the employer to pay other contributions in respect of the same person during the year preceding the date when the information was so laid, and on proof of such failure or neglect the employer shall be liable to pay to the unemployment fund a sum equal to the total of all the contributions which he is so proved to have failed or neglected to pay. Any sum paid by an employer under the foregoing provision shall be treated as a payment in satisfaction of the unpaid contributions. . . ." Sub-section (6):—"Nothing in this section shall be construed as preventing the Minister from recovering any sums due to the unemployment fund by means of civil proceedings, and all such sums shall be recoverable as debts due to the Crown, and without prejudice to any other remedy may be recovered by the Minister summarily as a civil debt." Rowlatt, J., held that, the civil jurisdiction of the magistrates having been invoked and an order for payment made thereunder, no other civil proceedings could be taken. He dismissed the information. The Attorney-General appealed.

LORD HANWORTH, M.R., said that the appeal must be allowed. By s. 1 of the Unemployment Insurance Act, 1920, employed persons as defined by reference to the schedule were to be insured against unemployment. Section 2 gave insured persons the right to receive payments specified in the Act and referred to as unemployment benefit. By s. 5 certain contributions were to be made by employers. Section 14 provided for the establishment of an unemployment fund into which contributions were to be paid. The Act contemplated the possibility of failure or neglect on the part of the employer to pay his contributions, and s. 22 (2) provided that that failure or neglect should be an offence for which he could on conviction be fined a sum not exceeding £10. Every time an employer failed to pay a contribution, he committed a separate offence. So far, therefore, there was punishment for non-compliance. Then sub-s. (3) provided that where an employer had been convicted for failing to pay any contribution he became liable to pay to the unemployment fund a sum equal to the amount he had failed or neglected to pay. And notice might be served on the employer requiring him to pay other contributions which it was proved he had not paid in respect of the same person within the year preceding the date of the information. His lordship read the final words of s. 22 (3), and proceeded. So far, there was a scheme for the recovery before the magistrates of money due. Rowlatt, J., had held that that was a special and exclusive remedy, in spite of sub-s. (6). His lordship read the sub-section, and, proceeding, said that Rowlatt, J., seemed to have thought that the scheme provided under sub-ss. (2) and (3) was a scheme which, although not entirely exclusive, if once put into force excluded any other remedy by civil proceedings. That construction appeared to overlook the proviso contained in sub-s. (6), the words of which appeared plainly to indicate that the rights given to the Minister to recover sums due to the unemployment fund were not merely alternative, but cumulative. He, his lordship, was quite unable to accept the view of the judge below, which had the effect of saying that the Minister could collect as much as he was able to by taking criminal proceedings, but that he had no alternative rights. In his, the Master of the Rolls', opinion, the right to recover unpaid contributions as a civil debt was preserved. The appeal must be allowed and judgment entered for the informant for £5 0s. 2d.

SCRUTTON, L.J., delivered judgment to the same effect, and SARGANT, L.J., concurred.

COUNSEL: *The Solicitor-General* (*Sir Thomas Inskip*, K.C.) and *C. W. Lilley; Linton Thorp.*

SOLICITORS: *The Solicitor to the Ministry of Labour; Withers, Bensons & Co.*, for *Metcalfe, Copeman & Pettefar*, Wisbech.

[Reported by H. LANGFORD LEWIS, Esq., Barrister-at-Law.]

Richards *v.* United National Collieries Limited.

No. 1. 26th May.

WORKMEN'S COMPENSATION — PRACTICE — APPLICATION TO REDUCE OR END WEEKLY PAYMENTS — CONFLICTING CERTIFICATES OF DOCTORS—REFERENCE TO MEDICAL REFEREE — WORKMAN DEMANDING HIS EXPENSES OF TRAVELLING TO MEDICAL REFEREE'S HOUSE—CONDUCT MONEY—NO POWER TO AWARD—WORKMEN'S COMPENSATION ACT, 1915, 15 & 16 Geo. 5, c. 84, ss. 12, 19—Rules.

The court has no power to make an order that a workman who is ordered to attend before a medical referee to determine whether he is entitled to continue in the receipt of a weekly payment for compensation shall be paid a sum for his expenses in getting to the medical referee's house.

Appeal from a decision of the judge at Newport County Court, sitting as arbitrator under the Workmen's Compensation Act, 1925. The appellant, a workman, was injured while in the service of the respondents and was paid compensation. The employers applied to reduce or end the weekly payment, on the ground that the appellant had recovered, and they obtained a certificate to that effect from their doctor and served it upon the appellant, as provided by s. 12 of the Workmen's Compensation Act, 1925. The appellant obtained

a certificate from his own doctor to the opposite effect, as provided by s. 12, sub-s. (3) (i), and application was made to the registrar to make an order for the matter to be referred to a medical referee, within the terms of the section. The appellant claimed that he ought not to be ordered to attend before a medical referee unless he were paid his reasonable expenses of travelling there. The registrar made the order for attendance, but declined to allow the expenses claimed, and the county court judge upon appeal, without giving any reasons, affirmed the order. The appellant appealed. The court dismissed the appeal.

Lord HANWORTH, M.R., said that the amount of money involved in the appeal was small—about 2s.—but the point raised was important and would be of interest in a great many cases. Having looked through the sections of the Workmen's Compensation Act, 1925, and the various Rules made under the different Acts from 1897 to 1925, his lordship said that there seemed no power to make the order asked by the appellant. Costs of arbitration, fees of certifying surgeons and medical referees, etc., were provided for, but there was no power to give conduct money to a workman required to attend before a medical referee.

Lords Justices SCRUTTON and SARGANT delivered judgments to like effect.

COUNSEL: *Sir H. Slesser*, K.C., and *Kirkhouse-Jenkins* for appellant; *Cave*, K.C., and *J. Victor Evans* for respondents.

SOLICITORS: *T. S. Edwards & Sons*, Newport; *Bell, Brodrick & Gray*, for *Kensholes & Prosser*, Aberdare.

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Oldham; Oldham** *v.* **Myles.**

Astbury, J. 18th and 22nd March.

ADMINISTRATION—ACCOUNTS BETWEEN TENANT FOR LIFE AND REMAINDERMAN—INCOME FOR YEAR—DEDUCTION OF TAX.

In applying the rule in Allhusen *v.* Whittell, 1867, *L.R.* 4 *Eq.* 295, *the income of the estate should be calculated, not on the basis of the gross amount received, but on the basis of the net amount after deduction of tax.*

Originating summons. This was an originating summons raising the question, *inter alia*, of how income should be calculated as between tenant for life and remainderman, whether on the gross amount received or on the net amount after deduction of tax.

ASTBURY, J., after stating the facts, said that in applying the rule in *Allhusen* v. *Whittell*, *supra*, the income of the estate should be calculated on the basis of the net amount after deduction of tax, and not on the basis of the gross amount received.

COUNSEL: *W. J. Whittaker; Vanneck; H. H. King.*

SOLICITORS: *Patersons, Snow & Co.; Harold Elwell & Co.; Lethbridge, Money & Prior.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

In re **James Burton and Sons, Ltd.**

Romer, J. 6th and 7th April.

COMPANY—SHARES—ALLOTMENT BEFORE FILING STATEMENT IN LIEU OF PROSPECTUS—VALIDITY—TRANSFER AFTER FILING—TRANSFEREE PRESENTING TRANSFER ACCEPTING CERTIFICATE AND BONUS AND ATTENDING MEETING OF SHAREHOLDERS—MEMBER OF COMPANY—COMPANIES (CONSOLIDATION) ACT, 1908, (8 Edw. 7, c. 69), s. 82, sub-s. (1).

Although an allotment made before the filing of a statement in lieu of prospectus is by virtue of s. 82 of the Companies (Consolidation) Act, 1908, an illegal allotment (see In re Jubilee Cotton Mills Ltd., 1924, *A. C.* 958), *the section does not enable an applicant for shares to relieve himself of the liability to pay calls when he has accepted a certificate of shares and a bonus paid thereon, and has attended a meeting of shareholders.*

In re Blair Open Hearth Furnace Company, 1914, 1 Ch. 390, *considered.*

This was an application to rectify a share register. The facts were as follows: A company was formed by Mr. Young and Mr. Heywood and incorporated on 9th April, 1920, with a capital of £600,000, divided into £1 shares. It was formed in order that it might take over from Young and Heywood certain cotton mills which they had purchased on 19th June, 1919, for a sum of £400,000, and which they proposed re-selling to the company for £550,000. On 20th January, 1920, a circular was sent to the applicant (amongst others) on their behalf stating that they proposed to form a new company, and that it was hoped the company would be incorporated very shortly, and the circular continued: "The capital of the proposed company will be £600,000, divided into 600,000 shares of £1 each, upon which 10s. per share will be called up. The shares in the new company may be acquired at par, i.e., 10s. per share of £1 (10s. paid up). If you desire to acquire shares an application form should be completed and forwarded to us or the Union Bank of Manchester. Applications shall be made not later than Wednesday, 5th February, 1920." There was a form of application for shares attached to the circular. The applicant filled in the form, applied for 100 shares and enclosed a cheque for £50. On 16th April, 1920, a meeting of the directors was held and a resolution passed that the shares in the company should be allotted in accordance with the applications received to the persons named thereunder. These were Young, Heywood and the solicitor to the company, 4,000 shares each, and the four signatories to the memorandum one share each, and the balance of the share capital of 586,996 shares to Young. On 14th April, 1920, Young had purported to transfer to the applicant 100 shares, but the denoting numbers had not been specified. The statement in lieu of prospectus was filed on 20th April, 1920, and on 30th April there was a meeting of directors. The transfer of 100 shares from Young to the applicant came before the board at that meeting, and a resolution was passed approving the transfer and directing that the share certificate should be forwarded to the applicant. The certificate was dated 26th May. At the board meeting on 30th April, a bonus of sixpence per share was declared and on 8th January that bonus was paid to the applicant. The applicant attended the first meeting of shareholders on 24th March, 1921, as purporting to be the owner of 100 shares. The company subsequently went into liquidation, and the applicant thereupon denied being a shareholder, and submitted that on 16th April, s. 82, sub-s. (1) of the Companies (Consolidation) Act, 1908 had not been complied with and that therefore the allotment of shares to Young was void.

ROMER, J., after stating the facts, said on 16th April, 1920, the company had not filed its statement in lieu of prospectus, and accordingly by virtue of s. 82 of the Companies (Consolidation) Act, 1908, the allotment was an illegal allotment. The effect of an allotment made in contravention of s. 82 has been considered by the Court of Appeal in *In re Blair Open Hearth Furnace Company*, 1914, 1 Ch. 390, and by the Court of Appeal and the House of Lords in *In re Jubilee Cotton Mills Ltd.*, 1923, 1 Ch. 1, and 1924, A.C. 958. In view of these two cases this court is bound to treat an allotment made in contravention of s. 82 as a void allotment. But having regard to what was said by the Court of Appeal in *In re Blair Open Hearth Furnace Company, supra*, what does that mean? It means no more than this, that no contract was come to between Young and the company on 16th April under which the company became bound to register Young and Young became bound to take these shares in the company. The contract is not completed because this allotment which is a mere acceptance of the offer to take the shares communicated

to the applicant as an allotment which is in the circumstances *ultra vires* the company. The company had before it various applications. None of these applications having been withdrawn, they are continuing offers by the applicants to take shares in the Company. Then on 30th April when the company is in a position to allot shares directly to the applicant or to Young, by accepting the applicant's transfer and registering him in respect of the hundred shares an agreement is come to between the applicant and the company by virtue of which he becomes a member in respect of those shares. Therefore s. 82 did not enable the applicant to relieve himself of the liability which he had always intended to undertake. In any event, the applicant, by accepting the certificate, by accepting the bonus, and by attending a meeting of the shareholders, is estopped from denying that an agreement was come to between him and the company under which he agreed to take these shares at a time when the company was in a position legally to enter into such an agreement. The application fails, and must be dismissed.

COUNSEL: *Gover*, K.C., and *J. Bennett, Luxmoore*, K.C., and *R. Peel.*

SOLICITORS: *Hall, Hawkins, Pimblott, Brydon & Chapman; Simmons & Simmons.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

In re **Forsey and Hollebone's Contract.** Eve, J. 26th May.

VENDOR AND PURCHASER—PROPERTY SOLD FREE FROM INCUMBRANCES—BUT SUBJECT TO A RESOLUTION UNDER THE TOWN PLANNING ACT, 1925—RESOLUTION REGISTERED BUT NOT APPROVED BY MINISTER OF HEALTH—LAW OF PROPERTY ACT, 1925, s. 198—LAND CHARGES ACT, 1925, s. 15—LAW OF PROPERTY (AMENDMENT) ACT, 1926, Schedule.

Land was sold free from incumbrances. It was however subject to a resolution passed by the local authority under the Town Planning Act, 1925, s. 2. The resolution had been registered but had not been approved by the Minister of Health.

Held, that the resolution, though registered as a land charge, was not an incumbrance within the meaning of the contract.

This was a purchaser's summons asking for a declaration that the vendor had not shown a good title. By the contract dated 10th December, 1926, the vendor agreed to sell and the purchaser agreed to purchase certain freehold premises at Eastbourne as an estate in fee simple free from incumbrances except certain restrictive and other covenants as therein mentioned. On 30th December the purchaser's solicitors applied to the town clerk of Eastbourne for an official search of the register of local land charges against the property, and a few days later they received a certificate showing that the property was subject to a resolution passed by the borough of Eastbourne under the Town Planning Act. Neither the vendor nor the purchaser was aware of the existence of the resolution at the date of the contract. The resolution was registered as a land charge, but no scheme had been approved by the Minister of Health. The purchaser contended that the resolution constituted an incumbrance within the meaning of the contract.

EVE, J., said it was clear that the expression "incumbrances" must be read as referring to restrictive and other covenants affecting the land. Under s. 15, sub-s. 7, of the Land Charges Act, 1925, any resolution passed by a local authority to prepare or adopt a town-planning scheme was to be deemed a restrictive covenant. That sub-section, however, was superseded by one of the amendments in the schedule to the Law of Property (Amendment) Act, 1926, where the definition which would have constituted the registered resolution an incumbrance was dropped, and the matter was left merely as a resolution which was to be registered as if it were a land charge. The result was that the matter remained at large and it was necessary to look at the Town Planning Act for the solution of the question. Assuming that the local authority had prepared a scheme, which it had not done in this case, that scheme would have to be submitted to the Minister of Health, and he might refuse to approve it. It was therefore possible that the scheme might never come into operation or that, if it did, it would not include the property the subject of this contract. As matters stood there was a potential interference with the property, but until that potentiality ripened into an actual interference, there was no incumbrance imposed on the property by the resolution. Even if it were an incumbrance, it was one of which the purchaser had notice under the Law of Property Act, 1925, s. 198. The application must be dismissed.

COUNSEL: *Topham*, K.C., and *Byrne; Farwell*, K.C., and *C. E. Harman.*

SOLICITORS: *Wellington Taylor & Sons; Burton, Yeates and Hart*, for *Charles & Malcolm*, Worthing.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division

Dale (H.M. Inspector of Taxes) *v.* Mitcalfe.

Rowlatt, J. 16th May.

REVENUE — INCOME TAX — SETTLEMENT — ACCUMULATED TRUST FUNDS—CLAIM FOR RECOVERY OF TAX PAID—INCOME TAX ACT, 1918, 8 & 9 Geo. 5, c. 40, s. 25.

A claim under s. 25 of the Income Tax Act, 1918, for the repayment of tax paid in respect of income accumulated during minority under a settlement was upheld on the ground that the words of the section, which gives relief in cases where money has been accumulated "for the benefit of any person" contingently on his attaining a given age or marrying, applied where the accumulated income under the terms of the settlement was added to the corpus and the beneficiary only received the interest upon it.

This was an appeal on a case stated by the Commissioners for the General Purposes of the Income Tax Acts. At a meeting of the Commissioners on the 29th October, 1925, the present respondent, Mary Catherine Louise Mitcalfe (*née* Burn), appealed against an objection made by the present appellant, the Inspector of Taxes for Hexham, to a claim made by her for relief under s. 25 of the Income Tax Act, 1918, in respect of income accumulated under the trusts of a settlement. The settlement, dated the 18th October, 1910, was made between the settlor, John Henry Burn, and the trustees named therein, and settled trust funds upon certain trusts in favour of his five children, all of whom were then minors. By Chap. 5 of the settlement:—"Upon trust for all or any the children or child of the settlor now living or hereafter to be born who being male shall attain the age of 21 years or being female shall attain that age or previously marry if more than one in equal shares except that each son shall take double the share of each daughter." At the hearing, the following facts were proved or admitted:—The respondent, a daughter of the settlor, attained the age of twenty-one on the 26th May, 1921, and was married to her present husband, William Stanley Mitcalfe, on the 31st August, 1922. The appropriate income tax in respect of the whole income of the trust funds had been duly paid up to the 26th May, 1921, by the trustees for the time being of the settlement. From that date the respondent had been paid the income of her share of the trust funds (including the income of her share of the invested accumulations, as directed by Chap. 10 of the settlement); and all tax recoverable by her in respect of such income up to the date of her marriage had been fully repaid to her. On the 12th September, 1922, the respondent claimed the sum of £380 3s. 11d., under s. 25, on account of tax paid or deducted in respect of income accumulated during her minority under the settlement. During her minority the accumulations of income from the trust funds were set aside to the credit of a separate accumulations fund in the names of the trustees of the settlement. The claim was refused by the appellant on the ground that

"as the accumulations of the income are added to the capital of the trust fund which never passes to the beneficiary the claim under s. 25 of the Income Tax Act, 1918, cannot be admitted." After hearing arguments, the Commissioners held that the respondent was entitled to the repayment of the tax as claimed. Section 25 of the Income Tax Act, 1918, enacts as follows:—"Where in pursuance of the provisions of any will or settlement any income arising from any fund is accumulated for the benefit of any person contingently on his attaining some specified age or marrying, and the aggregate amount in any year of assessment of that income and the income from any other funds subject to the like trusts for accumulation and of the total income of that person from all sources (hereinafter referred to as 'the aggregate yearly income') is of such an amount only as would entitle an individual either to total exemption from tax or to relief from tax that person shall, on making a claim for the purpose within three years after the year of assessment in which the contingency happens, be entitled . . . to have repaid to him (a sum calculated as therein mentioned).

ROWLATT, J., said that, in his judgment, the Commissioners were right. He had to construe the words "accumulated for the benefit of any person contingently on his attaining some specified age or marrying." In this case the money was accumulated contingently on the beneficiary attaining twenty-one or marrying, and the accumulations were to be capitalised. She was to receive interest on the accumulations. His lordship referred to the arguments but said that he must dismiss the appeal. The whole thing was very artificial, and it might be that the trustees could make the respondent account for the money.

COUNSEL:—For the Crown, *The Attorney-General* (*Sir Douglas Hogg, K.C.*), and *R. P. Hills;* for the respondent, *A. M. Latter*, K.C., and *Cyril King*.

SOLICITORS: *The Solicitor of Inland Revenue; Gregory, Rowcliffe & Co.*, for *Cooper & Jackson*, Newcastle-on-Tyne.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Little *v.* Little. Hill, J. 16th May.

DIVORCE — EVIDENCE OF ADULTERY — DECREE AGAINST RESPONDENT AS CO-RESPONDENT IN PREVIOUS SUIT— NO FINDING OF ADULTERY IN DECREE—FINDING OF ADULTERY INFERRED FROM AWARD OF DAMAGES.

An award of damages against a co-respondent necessarily involves a finding that he has committed adultery.

This was a wife's undefended petition for dissolution of her marriage on the ground of her husband's adultery. The husband had been co-respondent in a previous suit in which the woman named in the present petition had been respondent. A decree *nisi* had been pronounced in that suit with costs against the co-respondent, and damages to the amount of £500 had been awarded against him by a jury. The charges of adultery in the present petition were identical with those which had been established in the former suit. Counsel for the petitioner tendered the decree in the former suit as being sufficient evidence of the adultery alleged. The decree stated that the respondent (the woman named in the present petition) had been guilty of adultery with the co-respondent (the respondent in the present suit), but did not contain a specific finding that the co-respondent had committed adultery with the respondent. Counsel for the petitioner submitted that the award of damages in the former suit implied a finding of adultery. He distinguished *Ruck* v. *Ruck*, 1896, P. 152, on the ground that there was no award of damages and referred to *Swan* v. *Swan*, a decision of Sir Francis Jeune, reported only in *The Times* newspaper of 24th March, 1923.

HILL, J., after perusing *Swan* v. *Swan, supra*, said: Let us see what the principle that he (Sir Francis Jeune) applied is. The facts in the case actually decided by the court appear from the judgment itself to supply the grounds on which the judgment is based. I do not quite see how far it has to appear from the judgment itself, but I think it is necessarily involved that a verdict of damages having been given an order is made by the court to the then co-respondent to pay those damages. It is necessarily involved in that that Little should have been found guilty of adultery with the wife of the then petitioner, and I think that that does appear as it is the only way in which a co-respondent can have an order to pay damages made against him. It appears as fully as if it had been set out that he had committed adultery. Decree *nisi*, with costs and custody of the youngest child.

COUNSEL: *Noel Middleton*, for the petitioner.

SOLICITOR: *J. Elliot Mallinson.*

[Reported by J. F. COMPTON MILLER, Esq., Barrister-at-Law.]

Societies.

Gray's Inn.

On Monday, the 13th inst., the Treasurer (Lord Merrivale) and Benchers of Gray's Inn entertained the Benchers of the Inner Temple at dinner in Gray's Inn Hall "in commemoration of the antient Amity and League" which has existed between the two societies for some centuries. Last year the Benchers of the Inner Temple were the hosts of the Benchers of Gray's Inn, the visit being a revival of this ancient custom after a lapse of two centuries.

After the loyal toasts had been given, Lord Merrivale proposed "The Inner Temple," and the Treasurer of the Inner Temple (Judge Atherley-Jones, K.C.) replied. Mr. Birrell, K.C., a Bencher of the Inner Temple, then proposed "Gray's Inn," and Sir Miles Mattinson, K.C., a Bencher of Gray's Inn, replied. During the evening the Westminster Singers gave a selection of old English glees from the Minstrels' Gallery of the Elizabethan Hall.

The Inner Temple Benchers present were Judge Atherley-Jones, K.C. (Treasurer), Mr. Augustine Birrell, K.C., Mr. R. F. MacSwinney, Mr. Hugo J. Young, K.C., Sir John Simon, K.C.V.O., K.C., M.P., Mr. E. W. Hansell, K.C., Mr. Howard Wright, Judge Bairstow, K.C., Mr. Alexander Grant, K.C., Mr. Justice Branson, Mr. A. A. Hudson, K.C., Mr. Justice Bateson, Mr. R. H. Balloch, Mr. F. P. M. Schiller, K.C., Mr. Ernest B. Charles, C.B.E., K.C., Sir Travers Humphreys, Sir Duncan Kerly, K.C., Mr. Justice MacKinnon, Mr. Justice Wright, Mr. G. F. L. Mortimer, K.C., Mr. H. P. Macmillan, K.C., Mr. Eustace Gilbert Hills, K.C., Sir Claud Schuster, K.C.B., C.V.O., K.C., Mr. W. A. Greene, K.C., Sir Thomas Willes Chitty, Bart., K.C., Mr. C. M. Pitman, K.C., and the Rev. the Master of the Temple.

The Benchers of Gray's Inn present, in addition to the Treasurer, were Sir Miles Mattinson, K.C., Sir Lewis Coward, K.C., Mr. T. Terrell, K.C., Sir Plunket Barton, Bart., K.C., Lord Glenavy, Mr. Herbert F. Manisty, K.C., Mr. Edward Clayton, K.C., Sir Montagu Sharpe, K.C., His Excellency Timothy Healy, K.C., Judge Ivor Bowen, K.C., Sir Alexander Wood Renton, K.C.M.G., K.C., Mr. R. E. Dummett, Vice-Chancellor Courthope Wilson, K.C., Sir Walter Greaves-Lord, K.C., M.P., Mr. G. D. Keogh, Mr. Bernard Campion, K.C., Lord Morison, Mr. J. W. Ross-Brown, K.C., Mr. James Whitehead, K.C., Mr. Frederick Hinde, Mr. R. Storry Deans, M.P., Mr. Malcolm Hilbery, with the Chaplain (the Rev. W. R. Matthews, D.D.), and the Under-Treasurer (Mr. D. W. Douthwaite).

Law Association.

The usual monthly meeting of the directors was held at The Law Society's Hall on Thursday, the 9th inst., Mr. J. R. H. Molony in the chair. The other directors present were Mr. J. D. Arthur, Mr. E. B. V. Christian, Mr. P. E. Marshall, Mr. A. E. Pridham and Mr. Wm. Winterbotham, and the secretary, Mr. E. E. Barron. Mr. J. D. Arthur was appointed chairman of the board for the current year and the Finance Committee was re-appointed. A sum of £1,149 was voted in continuance of grants to cases regularly assisted by the Association, with some increases, and other general business was transacted.

Solicitors' Benevolent Association.

The monthly meeting of the directors was held on the 8th inst., at The Law Society's Hall, Chancery Lane, London, the Rt. Hon. Sir William Bull, Bart., P.C., M.P., in the chair, the other directors present being Messrs. F. E. F. Barham, C. E. Barry (Bristol), E. R. Cook, W. E. Cunliffe, T. S. Curtis, E. F. Dent, A. G. Gibson, R. B. Johns (Plymouth), E. F. Knapp-Fisher, C. G. May, H. A. H. Newington, M. A. Tweedie and A. B. Urmston (Maidstone); £920 was distributed in grants of relief; eighty-four new members were admitted; and other general business transacted.

City of London Solicitors' Company.

GOLF (CHALLENGE CUP) COMPETITION, 1927.

The annual competition for the Challenge Cup presented by the Master and Wardens of this Company, took place at Sunningdale, on Wednesday the 8th inst., when Mr. F. T. Mawby was the winner, 3 down on bogey.

Mr. Harry Knox and Mr. W. T. W. Birts tied at 7 down for second place.

The Union Society of London.

President: Mr. J. SINGLE.

The Union Society of London met in the Middle Temple Common Room on Wednesday evening to discuss the motion "That this House regrets the South African Flag Bill." Mr. J. M. Symmons (barrister), who opened, said that the suggested alteration in the South African flag indicated the disunion of the Empire, and was oppressive to the English minority. Mr. D. F. Brundrit (barrister) in opposing, argued that the alteration in the flag was not necessarily a sign of disloyalty. Mr. D. M. Clarke (barrister), Mr. K. Ingram (barrister), Mr. D. F. Ryan (barrister), Mr. J. G. Baker (barrister) and Mr. C. N. Shawcross (barrister) spoke in favour of the motion, and Mr. G. A. Freeman (barrister), Mr. H. N. Sunyal, and Mr. J. Single (barrister) against. On a division the motion was declared carried by seven votes to one.

The Medico-Legal Society.

President: The Rt. Hon. Lord Justice ATKIN.

An Ordinary Meeting of the Society will be held at the conclusion of the Annual General Meeting at 11, Chandos Street, Cavendish Square, W.1, on Thursday, the 23rd June, when a paper will be read by Lord Riddell on "The Law and Ethics of Medical Confidences," which will be followed by a discussion.

Members may introduce guests to the meeting on production of a member's private card.

Rules and Orders.

THE CORONERS' RECORDS (FEES FOR COPIES) RULES, 1927. RULES, DATED APRIL 25, 1927, MADE BY THE SECRETARY OF STATE PRESCRIBING, UNDER SECTION 29 (2) (*a*) OF THE CORONERS (AMENDMENT) ACT, 1926 (16 & 17 GEO. 5. c. 59), FEES FOR FURNISHING COPIES OF DOCUMENTS.

1. These Rules may be cited as the Coroners' Records (Fees for Copies) Rules, 1927.

2. These Rules shall come into operation on 1st May, 1927.

3. The fees payable to coroners or other persons for furnishing copies of inquisitions, depositions or other documents in their custody relating to an inquest, shall be as follows:—

	£	s.	d.
for furnishing a copy required under Section 18 (5) of the Coroners Act, 1887,* of the inquisition or of the depositions of the witnesses at the inquest, for a person charged by the inquisition with murder, manslaughter or infanticide, per folio of 90 words ..	0	0	1½
for furnishing the like copies for the prosecution on the trial, per folio of 90 words	0	0	6
for furnishing any other copy of a document per folio of 72 words	0	0	6

W. Joynson-Hicks,
One of His Majesty's
Principal Secretaries of State.

Home Office.
25th April, 1927.

* 50–1 Vic. c. 71.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE.

Date.	EMERGENCY ROTA.	APPEAL COURT No. 1.	Mr. JUSTICE EVE.	Mr. JUSTICE ROMER.
Monday June 20	Mr. Bloxam	Mr. Synge	Mr. Hicks Beach	Mr. Bloxam
Tuesday .. 21	Hicks Beach	Ritchie	Bloxam	Hicks Beach
Wednesday 22	Jolly	Bloxam	Hicks Beach	Bloxam
Thursday.. 23	More	Hicks Beach	Bloxam	Hicks Beach
Friday 24	Synge	Jolly	Hicks Beach	Bloxam
Saturday .. 25	Ritchie	More	Bloxam	Hicks Beach

Date.	Mr. JUSTICE ASTBURY.	Mr. JUSTICE CLAUSON.	Mr. JUSTICE RUSSELL.	Mr. JUSTICE TOMLIN.
Monday June 20	Mr. Synge	Mr. Ritchie	Mr. More	Mr. Jolly
Tuesday .. 21	Ritchie	Synge	Jolly	More
Wednesday 22	Synge	Ritchie	More	Jolly
Thursday.. 23	Ritchie	Synge	Jolly	More
Friday 24	Synge	Ritchie	More	Jolly
Saturday .. 25	Ritchie	Synge	Jolly	More

TRINITY SITTINGS, 1927.

COURT OF APPEAL.

IN APPEAL COURT NO. 1.

Tuesday, 14th June.—Exparte Applications, Original Motions, Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and if necessary, Chancery Final Appeals.

Wednesday, 15th June.—Final Appeals from the Chancery Division will be taken and continued.

IN APPEAL COURT NO. 2.

Tuesday, 14th June.—Exparte Applications and Original Motions, from the King's Bench and Admiralty Divisions. Appeals from the Admiralty Division.

Wednesday, 15th June.—Admiralty Appeals will be continued. After Admiralty Appeals, King's Bench Final Appeals will be taken.

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.

CHANCERY COURT I.

Mr. JUSTICE EVE.

Mondays ....Chamber Summonses.
Tuesdays....Companies (Winding up) Business and Non-Witness List.
Wednesdays .Sht caus, pets, fur con and non-wit list.
Thursdays...Non-wit list.
Lancashire Business will be taken on Thursdays, 23rd June, 7th and 21st July.
Fridays ....Mots and non-wit list.
(N.B.—Motions will be heard Thursday, 28th July, and not on Friday, 29th July).

CHANCERY COURT IV.

Mr. JUSTICE ROMER.

Except when other Business is advertised in the Daily Cause List Actions with Witnesses will be taken throughout the Sittings.

CHANCERY COURT II.

Mr. JUSTICE ASTBURY.

Except when other Business is advertised in the Daily Cause List Actions with Witnesses will be taken throughout the Sittings.

Judgment Summonses in Bankruptcy will be taken on Mondays, the 20th June and 11th July.

Motions in Bankruptcy will be taken on Mondays the 27th June and 18th July.

Divisional Court in Bankruptcy will sit on Wednesday, 6th July.

LORD CHANCELLOR'S COURT.

Mr. JUSTICE CLAUSON.

Mondays ...Sitting in Chambers.
Tuesdays....Mots, sht caus, pets, fur con and non-wit list.
Wednesdays .Non-wit list.
Thursdays...Non-wit list.
Fridays .....Mots and non-wit list.

CHANCERY COURT III.

Mr. JUSTICE RUSSELL.

Mondays ...Chamber Summonses.
Tuesdays....Mots, sht caus, pets, fur con and non-wit list.
Wednesdays } Non-wit list.
Thursdays . }
Fridays .... Mots and non-wit list.

CHANCERY COURT V.

Mr. JUSTICE TOMLIN.

Except when other Business is advertised in the Daily Cause List Mr. Justice TOMLIN will throughout the Sittings take Actions with Witnesses on all days, other than Mondays, and on Mondays will sit as Chairman of The Royal Commission on Awards to Inventors, or of The University of London Commissioners.

THE COURT OF APPEAL.

TRINITY SITTINGS, 1927.

FROM THE CHANCERY DIVISION.

(Final List.)

1926.

The London & South American Investment Trust ld v The British Tobacco Co (Australia) ld (not before Hilary 1928)
Re Thomas May, dec Harlow v May & ors (not before July 1)
Re Same Same v Same (not before July 1)

1927.

The Scott Paper Co v Drayton Paper Works ld
Re Trade Marks Acts, 1905 to 1919 Re The Scott Paper Co's Trade Mark, No. 402,039
Attorney-Gen v Ellis
Rowland v Air Council (s.o. July 1925, restored to List May 9, 1927, fixed for June 20)
Re F. J. Davis's Trade Marks, No. B. 451,002 and B. 455,259 Re Trade Marks Acts, 1905 to 1919
Burkle v I'Anson
Smith v Cohen
Re Blatchford, dec Barrett v Dutfield & ors
Vislok ld v Peters

FROM THE CHANCERY AND PROBATE & DIVORCE DIVISIONS.

(Interlocutory List.)

Evered & ors v George Kent, ld
Divorce Willis, A U v Willis, O C
Re Companies Winding Up Re Flamingoes ld Re Cos. (C.) Act, 1908

FROM THE CHANCERY DIVISION.

(In Bankruptcy.)

Re a Debtor (No. 173 of 1927) Expte The Debtor v The Petitioning Creditor and The Official Receiver

FROM THE KING'S BENCH DIVISION.

(Final and New Trial List.)

1927.

Toft v MacDonald's Dental Co (London) ld
Wolf v Stevens & Co

Lazarus v Polikoff
Farey v Cooper & ors
Gaiety Theatre Co ld v Universal Play Direction ld
Knight, Frank & Rutley v Clark
The Mineral Transport Co v W D Barnett & Co
Page v The Liverpool Victoria Friendly Soc
F Nobel & Son ld v Cornhill Insce Co ld
South Staffordshire Mines Drainage Commissioners v William Elwell & Sons
Ateliers et Chantiers Maritimes du Sud-Ouest (Societe Annoyme) v Rose
Marbe v George Edwardes (Daly's Theatre) ld
The King v Commissioners of Customs & Excise (ex parte Pegler)
Fullwood v Hurley
Soman v Lorie
Gough v Partington Steel & Iron Co ld
Donald Campbell & Co (1926) ld v Rinkel
Bramley v Fulford
Vickers ld v Lewenstein

(Revenue Paper—Final List.)
1925.

Belfour v Mace

1926.

Commrs of Inland Revenue v Stagg & Mantle ld
Commrs of Inland Revenue v The Mashonaland Ry Co ld

1927.

Commrs of Inland Revenue v The Countess of Longford
Same v Pakenham
Lambert Bros ld v Commrs of Inland Revenue
Rees Roturlo Development Syndicate ld v Commrs of Inland Revenue
Same v Ducker (Inspector of Taxes)

(Interlocutory List.)

In the Matter of the Petition of Right of May & Butcher ld (s.o. for Attorney-General)
Mackenzie-Kennedy v The Air Council (s.o. to come on with Chancery Appeal (April 26, 1926))
Hardie & Lane ld v Chilton & ors
Same v Same
Savage v Consolidated Fuels ld
James Durnford & Sons ld v The Great Western Ry Co
Rhyl & Potteries Motors v The Motor Union Insce Co ld

FROM THE ADMIRALTY DIVISION.
(Final List.)

With Nautical Assessors.

Canton—1925—Folio 183 Owners of S.S. Rhesus v Owners of Motor Ship Canton
Jupiter—1926—Folio 308 Owners of S.S. Adrian v Owners of S.S. Jupiter
Induna—1926—Folio 418 Owners of S.S. Ellenia v Owners of S.S. Induna
Eleftherios K Venizelos—1925—Folio 530 Owners of S.S. Dakar Maru v Owners of Eleftherios K Venizlos
Cap Padaran—1926—Folio 496 Owners of S.S. British Advocate v Owners of S.S. Cap Padaran
Cygnus—1926—Folio 356 Owners of S.S. Kingfisher v Owners of S.S. Cygnus
Cygnus—1926—Folio 359 Owners of S.S. Clan MacGillivray v Owners of S.S. Cygnus
Ulrikka II & Polydorus (Liverpool 1926—P.—14—1926—U.—25) Owners of S.S. Polydorus v Owners of S.S. Ulrikka II and Owners of S.S. Ulrikka II v Owners of S.S. Polydorus

Without Nautical Assessors.

Jupiter—1924—Folio—468 Compagnie Russe de Navigation a Vapeur et de Commerce Bourgeois v The Company

(Interlocutory List.)

Fagernes—1926—Folio 171 Owners of S.S. Cornish Coast v Societa Nazionale di Navigazione

RE THE WORKMEN'S COMPENSATION ACTS.
(From County Courts.)

Roberts v Wotton (s.o. to July 15)
Parler v The London Brick Co & Forders ld

Standing in the "ABATED" List.

FROM THE COUNTY PALATINE COURT OF LANCASTER
(Final List.)

Lund v Flohr

FROM THE KING'S BENCH DIVISION.

(Revenue Paper—Final List.)

Commrs of Inland Revenue v Parsons (s.o. generally Nov 26, 1925)

(Final and New Trial List.)

Fearnley v Robinson
Same v Same (s.o. generally (April 26))

RE THE WORKMEN'S COMPENSATION ACTS.

Hughes v The Shrubbery Colliery Co ld (s.o. generally Dec 7, 1926)

(Interlocutory List.)

S Baker & Co ld v Russian Transport & Insce Co (The London & Lancashire Insce Co ld Garnishees) (pt hd) (s.o. generally Dec. 14, 1926)
S. Baker & Co ld v Russian Transport & Insce Co (pt hd) (s.o. generally Dec 14, 1926)
S. Baker & Co ld v Russian Transport & Insce Co (The London & Lancashire Insce Co ld Garnishees (pt hd) (s.o. generally Dec 14, 1926)

N.B.—The above List contains Chancery, Palatine and King's Bench Final and Interlocutory Appeals, &c., set down to June 2nd, 1927.

HIGH COURT OF JUSTICE.—CHANCERY DIVISION.

TRINITY SITTINGS, 1927.

NOTICES RELATING TO THE CHANCERY CAUSE LIST.

Mr. Justice EVE will take his business as announced in the Trinity Sittings Paper.

Liverpool and Manchester Business.—Mr. Justice Eve will take Lancashire Business on Thursdays, the 23rd June, the 7th and 21st July.

COURT BONDS.

The Bonds of the

LONDON ASSURANCE CORPORATION

are accepted by the High Courts of Justice, Board of Trade, and all Government Departments.

Fidelity Bonds of all descriptions are issued by

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(INCORPORATED A.D. 1720)

ASSETS EXCEED £11,000,000.

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LIFE BONUS YEAR 1925.

1, KING WILLIAM STREET, LONDON, E.C.4.

MARINE DEPARTMENT: 7, ROYAL EXCHANGE, E.C.3.

Mr. Justice ASTBURY.—Except when other business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

Judgment Summonses in Bankruptcy will be taken on Mondays, the 20th June and 11th July.

Motions in Bankruptcy will be taken on Mondays, the 27th June and 18th July.

A Divisional Court in Bankruptcy will sit on Wednesday, the 6th July.

Mr. Justice RUSSELL will take his business as announced in the Trinity Sittings Paper.

Mr. Justice ROMER.—Except when other business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

Mr. Justice TOMLIN.—Except when other business is advertised in the Daily Cause List, Actions with Witnesses will be taken on all days, other than Mondays, throughout the Sittings.

Mr. Justice CLAUSON will take his business as announced in the Trinity Sittings Paper.

Summonses before the Judge in Chambers.—Mr. Justice EVE, Mr. Justice RUSSELL and Mr. Justice CLAUSON will sit in Court every Monday during the Sittings to hear Chamber Summonses.

Summonses adjourned into Court and Non-Witness Actions will be heard by Mr. Justice EVE, Mr. Justice RUSSELL and Mr. Justice CLAUSON.

Motions, Petitions and Short Causes will be taken on the days stated in the Trinity Sittings Paper.

NOTICE WITH REFERENCE TO THE CHANCERY WITNESS LISTS.

During the Trinity Sittings the Judges will sit for the disposal of Witness Actions as follows:—

Mr. Justice ASTBURY will take the Witness List for ASTBURY and CLAUSON, JJ.

Mr. Justice ROMER will take the Witness List for EVE and ROMER, JJ.

Mr. Justice TOMLIN will take the Witness List for RUSSELL and TOMLIN, JJ.

CHANCERY CAUSES FOR TRIAL OR HEARING.

Set down to 2nd June, 1927.

Before Mr. Justice EVE.

Adjourned Summonses.

Re Moullin Moullin v Ferguson
Re Eyre-Williams Eyre-Williams v Williams
Re Clarke Bond v Johnson (restored)
Re Lory Lory v Toy
Re Ockenden Bridge v Porter
Re Schleicher Public Trustee v McCarthy
Re Price Davis v Roberts
Re Freethy Cooper v Freethy
Re Venable's & Forsberg's Contract & re Law of Property Act, 1925 (with witnesses), fixed for 22nd June
Re Evans Butler v Evans
Re Plimsaull Public Trustee v Plimsaull
Re Golding Golding v Golding
Re Hall Midland Bank Executor and Trustee Co ld v Edwards
Re Dryden Mundy v Marcon
Re Simpson Public Trustee v Kohlmann
Re Sixty Thousand Shilling Fund Peckham v Att-Gen
Owen v Owen
Re Greaves Casebourne v Greaves
Re Walker Rolleston v Drury
Re French French v French
Re Horner Hornshaw v Fewster
Re Finch Finch v Lyte
Re Peters Walters v Peters
Re Baily Fulton v Walsh
Re Higg's & May's Contract re Law of Property Act, 1925
Re Robinson Goodman v Simpson
Re Heal Heal v Horne

COMPANIES (WINDING UP) AND CHANCERY DIVISION.

Companies (Winding Up).

Petitions (to wind up)

Alliance Bank of Simla ld (petn of L W Warlow-Harry—ordered on May 6, 1924, to s.o. generally)
Robert Young's Construction Co ld (petn of London Asphalte Co ld—s.o. from Jan 20, 1925—liberty to apply to restore)
H A P P Tanning Co ld (petn of J B Maclean and ors—ordered on June 2, 1926, to s.o. generally)

Trinidad Land & Finance Co ld (petn of A H Clifford & anr, trading as Clifford & Clifford—ordered on June 15, 1926, to s.o. generally)
Intertype ld (petn of Mergenthaler Linotype Co—s.o. from April 26, 1927, to June 14, 1927)
Trafalgar Films ld (petn of R. Fogwell—s.o. from April 26, 1927, to June 21, 1927—liberty to apply to restore)
Lancashire & General Assce Co ld (petn of Great West Engineering Co ld & anr—s.o. from May 24, 1927, to June 14, 1927)

Davies (Wesley Buildings) ld (petn of London Holeproof Hosiery Co ld)
Webster Bros ld (petn of Sidney J Lovell & Co, a firm)
Lyons Gowns ld (petn of Harry Luck & anr, trading as Luck Bros)
Water Heaters ld (petn of I J Benjamin)
Ridge Mills (Marple) ld (petn of H.M. Att-Gen)
A Thomson & Co ld (petn of H.M. Att-Gen)
Land & Commercial Syndicate ld (petn of C W Brett)
Darwins ld (petn of Williams Deacon's Bank ld)
Alldays Commercial Motors ld (petn of D G Ryder, trading as Ryder & Davidson)

Chancery Petitions.

Re Norske Lloyd Insce Co ld and re The Assce Cos Act, 1909 (s.o. from May 24, 1927, to June 14, 1927)
Hull Oil Manufacturing Co ld and reduced (to confirm reduction of capital)
Paul Ruinart (England) ld and reduced (same)
Kirkland Lake Proprietary (1919) ld and reduced (to confirm reduction of capital)
Askern Picture House ld and reduced (same)
Patent Victoria Stone Co ld and reduced (same)
Tankerton Estate ld & reduced (same)
Egyptian Consolidated Lands ld and reduced (same)
Argentine National & Provincial Lands ld and reduced (same)
St. Louis Breweries ld & reduced (same)
Rosehaugh (Ceylon) Rubber Co ld and reduced (same)
Grimsby Steam Fishing Co ld and reduced (same)
Marconi's Wireless Telegraph Co ld and reduced (same)
Dawson Line ld & reduced (same)
Bever Dorling & Co ld & reduced (same)
Interoceanic Ry of Mexico (Acapulco to Veru Cruz) ld
Mexican Eastern Ry Co ld
Mexican Southern Ry ld (to sanction scheme of arrangement)
Carr & Co ld (same)
Ravensworth Golf Club ld (to confirm alteration of objects)
National Bank of India ld (same)
London Trust Co ld (same)
Russian Wood Agency ld (to confirm re-organisation of capital)
Dickson & Benson ld (same)
E W Rudd ld (same)
Bwllfa & Merthyr Dare Steam Collieries (1891) ld (to sanction scheme of arranegment and confirm alteration of objects and re-organisation of capital)

Companies (Winding up).
Motions.

John Dawson & Co (Newcastle-on-Tyne) ld (s.o. generally by consent)
S Jacobs & Co ld (ordered on March 15, 1921, to s.o. generally)
H C Motor Co ld (ordered on July 5, 1921, to s.o. generally)
Corbridge Steamship Co ld (ordered on Dec 15, 1925, to s.o. generally)
R Maurice & Co ld (ordered on April 5, 1927, to s.o. generally)
E H Darby ld
H Cohen ld

Adjourned Summonses.
Companies (Winding up).

Vanden Plas (England) ld (with witnesses—parties to apply to fix day for hearing—retained by Mr. Justice Astbury)
Fairbanks Gold Mining Co ld (ordered on July 26, 1921, to s.o. generally)
Blisland (Cornwall) China Clay Co ld (ordered on Dec 16, 1921, to s.o. generally)
Atkey (London) ld (ordered on Jan 22, 1924, to s.o. generally)
Direct Fish Supplies ld (ordered on Feb 3, 1925, to s.o. generally)
Consolidated Produce Corpn ld (application of Sir E Bellingham—with witnesses—ordered on Dec 7, 1926, to s.o. generally—retained by Mr. Justice Eve)
Same (application of H Williams—with witnesses—ordered on Dec 7, 1926, to s.o. generally—retained by Mr. Justice Eve)
Same (application of I Hyams—with witnesses—ordered on Dec 7, 1926, to s.o. generally—retained by Mr. Justice Eve)
Chimbote (Peru) Coal & Harbour Syndicate ld (ordered on Dec 14, 1926, to s.o. generally)
Rogers (Carpets) ld (with witnesses)

Chancery Division.

French South African Development Co ld Partridge v French South African Development Co ld (ordered on April 2, 1914, to s.o. generally pending trial of action in King's Bench Division)
Economic Building Corpn ld (with witnesses) (ordered on July 3, 1923, to s.o. generally)
Economic Building Corpn ld (ordered on July 3, 1923, to s.o. generally)

Before Mr. Justice ASTBURY.
Retained Matter.

Brandon v Pearlberg

Causes for Trial.
(With Witnesses.)

Sames v Samestophone ld (pt hd) (s.o. generally)
Re Wharncliffe Woodmoor Colliery Co ld and re Cos (C) Act, 1908 (s.o. generally)

(To be continued.)

VALUATIONS FOR INSURANCE.—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-à-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement, Wednesday, 29th June, 1927.

	Middle Price 15th June	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	86	4 13 0	—
Consols 2½%	54⅛	4 12 0	—
War Loan 5% 1929-47	100 9/16	4 19 6	4 19 6
War Loan 4½% 1925-45	95¾	4 14 0	4 17 0
War Loan 4% (Tax free) 1929-42	100⅜	3 19 6	3 19 6
Funding 4% Loan 1960-90	86⅝	4 13 0	4 14 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	93	4 6 0	4 9 6
Conversion 4½% Loan 1940-44	96	4 13 6	4 16 6
Conversion 3½% Loan 1961	76½	4 12 0	—
Local Loans 3% Stock 1921 or after	63⅛	4 15 0	—
Bank Stock	246	4 18 0	—
India 4½% 1950-55	91	4 19 0	5 2 0
India 3½%	69¼	5 1 0	—
India 3%	59¼	5 1 0	—
Sudan 4½% 1939-73	94	4 16 0	4 17 0
Sudan 4% 1974	84½	4 15 0	4 18 6
Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years)	80⅝	3 14 0	4 12 0
Colonial Securities.			
Canada 3% 1938	83¾	3 12 0	4 18 6
Cape of Good Hope 4% 1916-36	93	4 6 0	5 0 0
Cape of Good Hope 3½% 1929-49	79½	4 8 0	5 0 6
Commonwealth of Australia 5% 1945-75	97⅝	5 2 0	5 2 0
Gold Coast 4½% 1956	93¾	4 16 0	4 18 0
Jamaica 4½% 1941-71	92¼	4 18 0	4 19 0
Natal 4% 1937	92¾	4 6 6	4 19 6
New South Wales 4½% 1935-45	89½	5 1 0	5 9 0
New South Wales 5% 1945-65	96¾	5 3 0	5 4 6
New Zealand 4½% 1945	95½	4 14 6	4 18 6
New Zealand 5% 1946	100⅛	5 0 0	5 0 0
Queensland 5% 1940-60	97	5 3 0	5 4 0
South Africa 5% 1945-75	100¼	5 0 0	5 0 0
S. Australia 5% 1945-75	96⅝	5 3 6	5 3 6
Tasmania 5% 1945-75	100½	4 19 6	5 1 0
Victoria 5% 1945-75	98½	5 2 0	5 3 6
W. Australia 5% 1945-75	99	5 1 0	5 3 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corpn.	61¾	4 18 0	—
Birmingham 5% 1946-56	103	4 17 6	4 18 6
Cardiff 5% 1945-65	101¼	4 19 0	4 19 0
Croydon 3% 1940-60	69	4 7 6	5 0 0
Hull 3½% 1925-55	78½	4 9 6	5 0 0
Liverpool 3½% on or after 1942 at option of Corpn.	72¼	4 17 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52¼	4 16 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	62½	4 16 0	—
Manchester 3% on or after 1941	63½	4 14 6	—
Metropolitan Water Board 3% 'A' 1963-2003	63	4 15 0	4 16 0
Metropolitan Water Board 3% 'B' 1934-2003	64¾	4 12 6	4 15 0
Middlesex C. C. 3½% 1927-47	82½	4 5 6	4 17 6
Newcastle 3½% irredeemable	71½	4 18 6	—
Nottingham 3% irredeemable	61¾	4 17 0	—
Stockton 5% 1946-66	101¾	4 18 6	4 19 6
Wolverhampton 5% 1946-56	101¼	4 19 0	4 19 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	80¾	4 19 0	—
Gt. Western Rly. 5% Rent Charge	99	5 1 0	—
Gt. Western Rly. 5% Preference	93½	5 7 0	—
L. North Eastern Rly. 4% Debenture	75¾	5 6 0	—
L. North Eastern Rly. 4% Guaranteed	71½	5 12 0	—
L. North Eastern Rly. 4% 1st Preference	64½	6 4 0	—
L. Mid. & Scot. Rly. 4% Debenture	79½	5 0 6	—
L. Mid. & Scot. Rly. 4% Guaranteed	76¼	5 5 0	—
L. Mid. & Scot. Rly. 4% Preference	70¾	5 13 0	—
Southern Railway 4% Debenture	79½	5 0 6	—
Southern Railway 5% Guaranteed	97½	5 2 6	—
Southern Railway 5% Preference	90¾	5 10 6	—

TO BE SOLD BY AUCTION, in the ESTATE AUCTION HALL, 22, KING STREET, ST. JAMES'S, S.W.1 (by direction of the Trustees of the ALDRIDGE ESTATE), on THURSDAY, JULY 21st, 1927.

IN 228 LOTS.

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By Order of the City Lands Committee of the Corporation of the City of London.

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BUILDING SITE

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Total frontage 109ft. 10in. Ground Area about 1,500 SQUARE FEET.

Suitable for the erection of Shop and Office Premises. On Building Lease for 99 years with

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Surveyor: A. J. BRICKWELL, Esq., C.B.E., "Hamilton House," Bishopsgate, E.C.2.

Particulars, Conditions of Letting or Sale, with Plans, can be obtained of the respective Solicitors, Surveyors, or of the AUCTIONEERS, 34, CLEMENT'S-LANE, LOMBARD-STREET, E.C.4. Royal 4436 (3 lines).

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